

# Equality for women and men

## European Community acts

Equality between women and men

Council Directive of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (2004/113/EC) – OJ L 373, 21.12.2004

Directive of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women in regards access to employment, vocational training and promotion, and working conditions (2002/73/EC) – OJ L 269, 5.10.2002

Corrigendum to Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security systems – OJ L 151, 18.6.1999

Council Directive of 15 December 1997 on the burden of proof in cases of discrimination based on sex (97/80/EC) – OJ L 14, 20.1.1998

Council Directive of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (97/75/EC) – OJ L 10, 16.1.1998

Council Directive of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes (96/97/EC) – OJ L 46, 17.2.1997

Council Directive of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (96/34/EC) – OJ L 145, 19.6.1996

Council Directive of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (with individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (92/85/EEC) – OJ L 348, 28.11.1992

Council Directive of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood (86/613/EEC) – OJ L 359, 19.12.1986

Council Directive of 24 July 1986 on the implementation of the principle of equal treatment between men and women in occupational social security schemes (86/378/EEC) – OJ L 224, 14.8.1986

Council Directive of 27 November 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (78/760/EEC) – OJ L 320, 22.12.1978

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# Equality for women and men

## **European Community Acts**

**Employment & social affairs**

Equality for women and men

**European Commission**  
Directorate-General for Employment, Social Affairs and Equal Opportunities  
Unit G.1

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# Foreword

Equality between women and men is a fundamental principle of the European Union, enshrined in the Treaty and in European law, and, for several decades now, enforced by the Court of Justice. Gender equality contributes to the achievement of the objectives of the Strategy for growth and employment.

The importance of gender equality policy is a result of its being intertwined with the history of European integration. As early as 1957, Article 119 of the Treaty of Rome contained a provision imposing equal pay for men and women. This has been the force behind the development of a considerable body of law. The principle of gender equality has greatly evolved since then. With Articles 2, 3, 13 and 141 of the Treaty of Amsterdam, gender equality entered a new phase, giving a significant fillip to primary legislation and the Union's ability to act in the field of gender equality through the issuing of specific legal bases.

Equality between women and men is one of the few areas where the progress achieved in law has preceded and influenced a radical change in actual behaviour and practice. The many directives adopted since the 1970s and the abundant case law of the Court of Justice today form a legal framework of real significance.

Nonetheless, the law is not set in stone. It is constantly evolving. Thirty years of history have shaped national laws, and the legislation has led to considerable changes in the Member States, such as the ban on all direct discrimination, the introduction of the concept of indirect discrimination, which considerably increases the number of potential cases of gender-based discrimination, the application of the principle of equal pay to occupational social security schemes, the reversal of the burden of proof and clear provisions on remedies in the event of discrimination, to give just a few examples.

Knowledge of the rights conferred by the Community acquis or familiarity with the mechanisms ensuring that these rights are observed are not enough. There has to be a greater awareness and participation of legal practitioners in this field. This new edition of the European Community acts provides a comprehensive, up-to-date picture of the way Community legislation has evolved. It contains all the Community legislative acts relating to gender equality, as well as other Community acts from the institutions, including recommendations, resolutions, communications, conclusions and other texts. In addition to the texts specifically aimed at gender equality, this publication also contains certain texts whose main purpose is not the promotion of gender equality but which are of particular importance for the fundamental rights of women. These texts illustrate gender mainstreaming.

Ensuring that European gender equality law is an everyday reality is one of the priority tasks of the Union. The major challenge in the coming years will be to make this law more accessible and more transparent in order to help civil society, and especially citizens, to use it and avail themselves of it.

**Vladimír Špidla**  
*European Commissioner for  
Employment, Social Affairs  
and Equal Opportunities*



# Table of contents

<b>A. LEGISLATIVE ACTS</b> .....	11
<b>I. Equal Treatment Legislation</b> .....	13
<b>a) EC Treaty</b> .....	15
Nice Treaty – Articles 2, 3 (2), 13 and 141 .....	15
<b>b) Directives</b> .....	17
Council Directive of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services <b>(2004/113/EC)</b> – OJ L 373, 21.12.2004 .....	19
Directive of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions <b>(2002/73/EC)</b> – OJ L 269, 5.10.2002.....	26
Council Directive of 15 December 1997 on the burden of proof in cases of discrimination based on sex <b>(97/80/EC)</b> – OJ L 14, 20.1.1998 .....	32
Council Directive of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC <b>(97/75/EC)</b> – OJ L 10, 16.1.1998 .....	35
Council Directive of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes <b>(96/97/EC)</b> – OJ L 46, 17.2.1997 .....	36
Corrigendum to Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes – OJ L 151, 18.6.1999 .....	41
Council Directive of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC <b>(96/34/EC)</b> – OJ L 145, 19.6.1996 .....	42
Council Directive of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) <b>(92/85/EEC)</b> – OJ L 348, 28.11.1992.....	48
Council Directive of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood <b>(86/613/EEC)</b> – OJ L 359, 19.12.1986 .....	56
Council Directive of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes <b>(86/378/EEC)</b> – OJ L 225, 12.8.1986.....	59

Council Directive of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (79/7/EEC) – OJ L 6, 10.1.1979.....	62
Council Directive of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (76/207/EEC) – OJ L 39, 14.2.1976 .....	64
Council Directive of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (75/117/EEC) – OJ L 45, 19.2.1975 .....	67
<b>II. Decisions on Community Action Programmes Related to Equality between Women and Men .....</b>	<b>69</b>
Decision of the European Parliament and of the Council of 7 September 2005 amending Council Decision 2001/51/EC establishing a programme relating to the Community framework strategy on gender equality and Decision No 848/2004/EC establishing a Community action programme to promote organisations active at European level in the field of equality between men and women (1554/2005/EC) – OJ L 255, 30.9.2005 .....	71
Decision of the European Parliament and of the Council of 29 April 2004 establishing a Community action programme to promote organisations active at European level in the field of equality between men and women (848/2004/EC) – OJ L 157, 30.4.2004 – and corrigendum – OJ L 195, 2.6.2004.....	73
Council Decision of 20 December 2000 establishing a Programme relating to the Community framework strategy on gender equality (2001-2005) (2001/51/EC) – OJ L 17, 19.1.2001 .....	78
<b>III. Other Legislation Related to Gender Issues .....</b>	<b>87</b>
<b>a) Gender Mainstreaming in Development Cooperation .....</b>	<b>89</b>
Regulation (EC) No 806/2004 of the European Parliament and of the Council of 21 April 2004 on promoting gender equality in development cooperation – OJ L 143, 30.4.2004.....	91
Council Regulation (EC) No 2836/98 of 22 December 1998 on integrating of gender issues in development cooperation – OJ L 354, 30.12.1998.....	97
<b>b) Domestic Violence and Trafficking in Human Beings .....</b>	<b>103</b>
Decision of the European Parliament and of the Council of 21 April 2004 adopting a programme of Community action (2004 to 2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk (the Daphne II programme) (2004/803/EC) – OJ L 143, 30.4.2004* .....	105
Council Framework Decision of 19 July 2002 on combating trafficking in human beings (2002/629/JHA) – OJ L 203, 1.8.2002* .....	113



<b>c) Commission Decisions on Gender Balance within Committees and Expert Groups and on an Advisory Committee on Equal Opportunities</b> .....	117
Commission Decision of 19 June 2000 relating to Gender Balance within the Committees and Expert Groups established by it ( <b>2000/407/EC</b> ) – OJ L 154, 27.6.2000 .....	119
Commission Decision of 19 July 1995 amending Decision 82/43/EEC relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men ( <b>95/420/EC</b> ) – OJ L 249, 17.10.1995 .....	121
Commission Decision of 9 December 1981 relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men ( <b>82/43/EEC</b> ) – OJ L 20, 28.1.1982 .....	125
<b>B. OTHER COMMUNITY ACTS</b> .....	129
<b>I. Council Recommendations</b> .....	131
Council Recommendation of 2 December 1996 on the balanced participation of women and men in the decision-making process ( <b>96/694/EC</b> ) – OJ L 319, 10.12.1996 .....	133
Council Recommendation of 31 March 1992 on child care ( <b>92/241/EEC</b> ) – OJ L 123, 8.5.1992 .....	138
Council Recommendation of 13 December 1984 on the promotion of positive action for women ( <b>84/635/EEC</b> ) – OJ L 331, 19.12.1984 .....	141
<b>II. Commission Recommendations</b> .....	143
Commission Recommendation of 27 November 1991 on the protection of the dignity of women and men at work ( <b>92/131/EEC</b> ) – OJ L 49, 24.2.1992 .....	145
Commission Recommendation of 24 November 1987 on vocational training for women ( <b>87/567/EEC</b> ) – OJ L 342, 4.12.1987 .....	153
<b>III. Council Resolutions</b> .....	157
Council Resolution of 27 November 2003 on equal access to and participation of women and men in the knowledge society for growth and innovation – OJ C 317, 30.12.2003 .....	159
Council Resolution of 20 October 2003 on initiatives to combat trafficking in human beings, in particular women – OJ C 260, 29.10.2003* .....	162
Council Resolution of 15 July 2003 on Social and Human Capital Building social and human capital in the knowledge society: learning, work, social cohesion and gender – OJ C 175, 24.7.2003.....	164
Council Resolution of 26 June 2001 on science and society and on women in science – OJ C 199, 14.7.2001 .....	168
Resolution of the Council and of the Ministers for Employment and Social Policy, meeting within the Council of 29 June 2000 on the balanced participation of women and men in family and working life – OJ C 218, 31.7.2000.....	170
Council Resolution of 20 May 1999 on women and science – OJ C 201, 16.7.1999 .....	173

Council Resolution of 4 December 1997 concerning the report on the state of women's health in the European Community – OJ C 394, 30.12.1997 .....	175
Council Resolution of 2 December 1996 on mainstreaming equal opportunities for men and women into the European Structural Funds – OJ C 386, 20.12.1996.....	177
Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 5 October 1995 on the image of women and men portrayed in advertising and the media – OJ C 296, 10.11.1995 .....	180
Council Resolution of 27 March 1995 on the balanced participation of men and women in decision-making – OJ C 168, 4.7.1995 .....	182
Resolution of the Council and of the representatives of the Governments of the Member States, meeting within the Council of 6 December 1994 on equal participation by women in an employment-intensive economic growth strategy within the European Union – OJ C 368, 23.12.1994.....	184
Council Resolution of 22 June 1994 on the promotion of equal opportunities for men and women through action by the European Structural Funds – OJ C 231, 20.8.1994 .....	188
Council Resolution of 29 May 1990 on the protection of the dignity of women and men at work – OJ C 157, 27.6.1990.....	189
Council Resolution of 16 December 1988 on the reintegration and late integration of women into working life – OJ C 333, 28.12.1988.....	191
Second Council Resolution of 24 July 1986 on the promotion of equal opportunities for women – OJ C 203, 12.8.1986 .....	193
Resolution of the Council and of the Ministers for Education, meeting within the Council of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education – OJ C 166, 5.7.1985 .....	195
Council Resolution of 7 June 1984 on action to combat unemployment amongst women – OJ C 161, 21.6.1984 .....	199
Council Resolution of 12 July 1982 on the promotion of equal opportunities for women – OJ C 186, 21.7.1982 .....	201
<b>IV. Council Conclusions .....</b>	<b>203</b>
Conclusions of the Council and the Ministers of Education meeting within the Council of 31 May 1990 on the enhanced treatment of equality of educational opportunity for girls and boys in the initial and in-service training of teachers – OJ C 162, 3.7.1990.....	205
Council Conclusions of 26 May 1987 on protective legislation for women in the Member States of the European Community – OJ C 178, 7.7.1987 .....	206

<b>V. Commission Communications<sup>1</sup></b> .....	207
Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Implementation of gender mainstreaming in the Structural Funds programming documents 2000-2006 – <b>COM(2002) 748 final</b> .....	209
Communication from the Commission to the Council and the European Parliament – Programme of Action for the mainstreaming of gender equality in Community Development Co-operation – <b>COM (2001) 295 final</b> .....	227
Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions – Towards a Community framework strategy on gender equality (2001-2005) – <b>COM(2000) 335 final</b> .....	242
Communication from the Commission to the Council and the European Parliament for further actions in the fight against trafficking in women – <b>COM(98) 726 final</b> .....	259
Communication from the Commission to the Council and the European Parliament on trafficking in women for the purpose of sexual exploitation – <b>COM(96) 567 final</b> .....	279
Communication from the Commission of 17 July 1996 'A code of practice on the implementation of equal pay for work of equal value for women and men' – <b>COM(96) 336 final</b> .....	305
Communication from the Commission of 21 February 1996 'Incorporating equal opportunities for women and men into all Community policies and activities – <b>COM(96) 67 final</b> .....	315

*Explanatory note:*

**For ease of reference, the legislative Community acts are listed separately from other non-binding Community acts. In both categories the relevant texts are presented in groups corresponding to the different types of acts. Only the legislative acts are further subdivided by subject-matter. Within the smallest categories acts are listed in reverse chronological order, i.e. starting with the document that was adopted most recently.**

**Note should be taken of the fact that some acts do not have the promotion of gender equality as their principal objective but are of particular importance to women's rights and were included for that reason. These acts are indicated by an asterisk (\*) in the list.**

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<sup>1</sup> Annexes to the Commission Communications are not included in this publication.



## **A. LEGISLATIVE ACTS**



# **I. Equal Treatment Legislation**

**a) EC Treaty**

**b) Directives**





## a) EC Treaty

### Article 2

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 3a, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States."

### Article 3

1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

- (a) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- (b) a common commercial policy;
- (c) an internal market characterized by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;
- (d) measures concerning the entry and movement of persons as provided for in Title IV;
- (e) a common policy in the sphere of agriculture and fisheries;
- (f) a common policy in the sphere of transport;
- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;
- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;

- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

2. In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

### **Article 13**

1. Without prejudice of the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

2. By way of derogation from paragraph 1, when the Council adopts Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1, it shall act in accordance with the procedure referred to in Article 251.

### **Article 141**

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

- a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
- (b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

## **b) Directives**



**COUNCIL DIRECTIVE 2004/113/EC**

**of 13 December 2004**

**implementing the principle of equal treatment between men and women in the access to and supply of goods and services**

THE COUNCIL OF THE EUROPEAN UNION,

European Convention for the Protection of Human Rights and Fundamental Freedoms, to which all Member States are signatories.

Having regard to the Treaty establishing the European Community and in particular Article 13(1) thereof,

- (3) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context and the freedom of religion.

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament<sup>(1)</sup>,

- (4) Equality between men and women is a fundamental principle of the European Union. Articles 21 and 23 of the Charter of Fundamental Rights of the European Union prohibit any discrimination on grounds of sex and require equality between men and women to be ensured in all areas.

Having regard to the Opinion of the European Economic and Social Committee<sup>(2)</sup>,

Having regard to the opinion of the Committee of the Regions<sup>(3)</sup>,

- (5) Article 2 of the Treaty establishing the European Community provides that promoting such equality is one of the Community's essential tasks. Similarly, Article 3(2) of the Treaty requires the Community to aim to eliminate inequalities and to promote equality between men and women in all its activities.

Whereas:

- (1) In accordance with Article 6 of the Treaty on European Union, the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles which are common to the Member States, and respects fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States as general principles of Community law.

- (6) The Commission announced its intention of proposing a directive on sex discrimination outside of the labour market in its Communication on the Social Policy Agenda. Such a proposal is fully consistent with Council Decision 2001/51/EC of 20 December 2000 establishing a Programme relating to the Community framework strategy on gender equality (2001-2005)<sup>(4)</sup> covering all Community policies and aimed at promoting equality for men and women by adjusting these policies and implementing practical measures to improve the situation of men and women in society.

- (2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination and the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and by the

- (7) At its meeting in Nice of 7 and 9 December 2000, the European Council called on the Commission to reinforce equality-related rights by adopting a proposal for a directive on promoting gender equality in areas other than employment and professional life.

<sup>(1)</sup> Opinion delivered on 30 March 2004 (not yet published in the Official Journal).

<sup>(2)</sup> OJ C 241, 28.9.2004, p. 44.

<sup>(3)</sup> OJ C 121, 30.4.2004, p. 27.

<sup>(4)</sup> OJ L 17, 19.1.2001, p. 22.

- (8) The Community has adopted a range of legal instruments to prevent and combat sex discrimination in the labour market. These instruments have demonstrated the value of legislation in the fight against discrimination.
- (9) Discrimination based on sex, including harassment and sexual harassment, also takes place in areas outside of the labour market. Such discrimination can be equally damaging, acting as a barrier to the full and successful integration of men and women into economic and social life.
- (10) Problems are particularly apparent in the area of the access to and supply of goods and services. Discrimination based on sex, should therefore be prevented and eliminated in this area. As in the case of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial and ethnic origin<sup>(1)</sup>, this objective can be better achieved by means of Community legislation.
- (11) Such legislation should prohibit discrimination based on sex in the access to and supply of goods and services. Goods should be taken to be those within the meaning of the provisions of the Treaty establishing the European Community relating to the free movement of goods. Services should be taken to be those within the meaning of Article 50 of that Treaty.
- (12) To prevent discrimination based on sex, this Directive should apply to both direct discrimination and indirect discrimination. Direct discrimination occurs only when one person is treated less favourably, on grounds of sex, than another person in a comparable situation. Accordingly, for example, differences between men and women in the provision of healthcare services, which result from the physical differences between men and women, do not relate to comparable situations and therefore, do not constitute discrimination.
- (13) The prohibition of discrimination should apply to persons providing goods and services, which are available to the public and which are offered outside the area of private and family life and the transactions carried out in this context. It should not apply to the content of media or advertising nor to public or private education.
- (14) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. An individual who provides goods or services may have a number of subjective reasons for his or her choice of contractual partner. As long as the choice of partner is not based on that person's sex, this Directive should not prejudice the individual's freedom to choose a contractual partner.
- (15) There are already a number of existing legal instruments for the implementation of the principle of equal treatment between men and women in matters of employment and occupation. Therefore, this Directive should not apply in this field. The same reasoning applies to matters of self-employment insofar as they are covered by existing legal instruments. The Directive should apply only to insurance and pensions which are private, voluntary and separate from the employment relationship.
- (16) Differences in treatment may be accepted only if they are justified by a legitimate aim. A legitimate aim may, for example, be the protection of victims of sex-related violence (in cases such as the establishment of single-sex shelters), reasons of privacy and decency (in cases such as the provision of accommodation by a person in a part of that person's home), the promotion of gender equality or of the interests of men or women (for example single-sex voluntary bodies), the freedom of association (in cases of membership of single-sex private clubs), and the organisation of sporting activities (for example single-sex sports events). Any limitation should nevertheless be appropriate and necessary in accordance with the criteria derived from case law of the Court of Justice of the European Communities.
- (17) The principle of equal treatment in the access to goods and services does not require that facilities should always be provided to men and women on a shared basis, as long as they are not provided more favourably to members of one sex.
- (18) The use of actuarial factors related to sex is widespread in the provision of insurance and other related financial services. In order to ensure equal treatment between men and women, the use of sex as an actuarial factor should not result in differences in individuals' premiums and benefits. To avoid a sudden readjustment of the market, the implementation of this rule should apply only to new contracts concluded after the date of transposition of this Directive.

<sup>(1)</sup> OJ L 180, 19.7.2000, p. 22.

- (19) Certain categories of risks may vary between the sexes. In some cases, sex is one but not necessarily the only determining factor in the assessment of risks insured. For contracts insuring those types of risks, Member States may decide to permit exemptions from the rule of unisex premiums and benefits, as long as they can ensure that underlying actuarial and statistical data on which the calculations are based, are reliable, regularly up-dated and available to the public. Exemptions are allowed only where national legislation has not already applied the unisex rule. Five years after transposition of this Directive, Member States should re-examine the justification for these exemptions, taking into account the most recent actuarial and statistical data and a report by the Commission three years after the date of transposition of this Directive.
- (20) Less favourable treatment of women for reasons of pregnancy and maternity should be considered a form of direct discrimination based on sex and therefore prohibited in insurance and related financial services. Costs related to risks of pregnancy and maternity should therefore not be attributed to the members of one sex only.
- (21) Persons who have been subject to discrimination based on sex should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should also be empowered to engage in proceedings, as the Member States so determine, either on behalf or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.
- (22) The rules on the burden of proof should be adapted when there is a prima facie case of discrimination and for the principle of equal treatment to be applied effectively, the burden of proof should shift back to the defendant when evidence of such discrimination is brought.
- (23) The effective implementation of the principle of equal treatment requires adequate judicial protection against victimisation.
- (24) With a view to promoting the principle of equal treatment, Member States should encourage dialogue with relevant stakeholders, which have, in accordance with national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of sex in the area of access to and supply of goods and services.
- (25) Protection against discrimination based on sex should itself be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims. The body or bodies may be the same as those with responsibility at national level for the defence of human rights or the safeguarding of individuals' rights, or the implementation of the principle of equal treatment.
- (26) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. The implementation of this Directive should not serve to justify any regression in relation to the situation, which already prevails in each Member State.
- (27) Member States should provide for effective, proportionate and dissuasive penalties in cases of breaches of the obligations under this Directive.
- (28) Since the objectives of this Directive, namely to ensure a common high level of protection against discrimination in all the Member States, cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (29) In accordance with paragraph 34 of the interinstitutional agreement on better law-making<sup>(1)</sup>, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between the Directive and the transposition measures and to make them public.

<sup>(1)</sup> OJ C 321, 31.12.2003, p. 1.

HAS ADOPTED THIS DIRECTIVE:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### Purpose

The purpose of this Directive is to lay down a framework for combating discrimination based on sex in access to and supply of goods and services, with a view to putting into effect in the Member States the principle of equal treatment between men and women.

#### Article 2

##### Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) direct discrimination: where one person is treated less favourably, on grounds of sex, than another is, has been or would be treated in a comparable situation;
- (b) indirect discrimination: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary;
- (c) harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment;
- (d) sexual harassment: where any form of unwanted physical, verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

#### Article 3

##### Scope

1. Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons who

provide goods and services, which are available to the public irrespective of the person concerned as regards both the public and private sectors, including public bodies, and which are offered outside the area of private and family life and the transactions carried out in this context.

2. This Directive does not prejudice the individual's freedom to choose a contractual partner as long as an individual's choice of contractual partner is not based on that person's sex.

3. This Directive shall not apply to the content of media and advertising nor to education.

4. This Directive shall not apply to matters of employment and occupation. This Directive shall not apply to matters of self-employment, insofar as these matters are covered by other Community legislative acts.

#### Article 4

##### Principle of equal treatment

1. For the purposes of this Directive, the principle of equal treatment between men and women shall mean that

- (a) there shall be no direct discrimination based on sex, including less favourable treatment of women for reasons of pregnancy and maternity;
- (b) there shall be no indirect discrimination based on sex.

2. This Directive shall be without prejudice to more favourable provisions concerning the protection of women as regards pregnancy and maternity.

3. Harassment and sexual harassment within the meaning of this Directive shall be deemed to be discrimination on the grounds of sex and therefore prohibited. A person's rejection of, or submission to, such conduct may not be used as a basis for a decision affecting that person.

4. Instruction to direct or indirect discrimination on the grounds of sex shall be deemed to be discrimination within the meaning of this Directive.

5. This Directive shall not preclude differences in treatment, if the provision of the goods and services exclusively or primarily to members of one sex is justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.



*Article 5***Actuarial factors**

1. Member States shall ensure that in all new contracts concluded after 21 December 2007 at the latest, the use of sex as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in individuals' premiums and benefits.

2. Notwithstanding paragraph 1, Member States may decide before 21 December 2007 to permit proportionate differences in individuals' premiums and benefits where the use of sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data. The Member States concerned shall inform the Commission and ensure that accurate data relevant to the use of sex as a determining actuarial factor are compiled, published and regularly updated. These Member States shall review their decision five years after 21 December 2007, taking into account the Commission report referred to in Article 16, and shall forward the results of this review to the Commission.

3. In any event, costs related to pregnancy and maternity shall not result in differences in individuals' premiums and benefits.

Member States may defer implementation of the measures necessary to comply with this paragraph until two years after 21 December 2007 at the latest. In that case the Member States concerned shall immediately inform the Commission.

*Article 6***Positive action**

With a view to ensuring full equality in practice between men and women, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to sex.

*Article 7***Minimum requirements**

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment between men and women than those laid down in this Directive.

2. The implementation of this Directive shall in no circumstances constitute grounds for a reduction in the level of

protection against discrimination already afforded by Member States in the fields covered by this Directive.

## CHAPTER II

**REMEDIES AND ENFORCEMENT***Article 8***Defence of rights**

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of the obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

2. Member States shall introduce into their national legal systems such measures as are necessary to ensure real and effective compensation or reparation, as the Member States so determine, for the loss and damage sustained by a person injured as a result of discrimination within the meaning of this Directive, in a way which is dissuasive and proportionate to the damage suffered. The fixing of a prior upper limit shall not restrict such compensation or reparation.

3. Member States shall ensure that associations, organisations or other legal entities, which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.

4. Paragraphs 1 and 3 shall be without prejudice to national rules on time limits for bringing actions relating to the principle of equal treatment.

*Article 9***Burden of proof**

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

2. Paragraph 1 shall not prevent Member States from introducing rules of evidence, which are more favourable to plaintiffs.

3. Paragraph 1 shall not apply to criminal procedures.

4. Paragraphs 1, 2 and 3 shall also apply to any proceedings brought in accordance with Article 8(3).

5. Member States need not apply paragraph 1 to proceedings in which it is for the court or other competent authority to investigate the facts of the case.

#### Article 10

##### Victimisation

Member States shall introduce into their national legal systems such measures as are necessary to protect persons from any adverse treatment or adverse consequence as a reaction to a complaint or to legal proceedings aimed at enforcing compliance with the principle of equal treatment.

#### Article 11

##### Dialogue with relevant stakeholders

With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders which have, in accordance with national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of sex in the area of access to and supply of goods and services.

### CHAPTER III

#### BODIES FOR THE PROMOTION OF EQUAL TREATMENT

##### Article 12

1. Member States shall designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, or the implementation of the principle of equal treatment.

2. Member States shall ensure that the competencies of the bodies referred to in paragraph 1 include:

- (a) without prejudice to the rights of victims and of associations, organisations or other legal entities referred to in

Article 8(3), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination;

- (b) conducting independent surveys concerning discrimination;

- (c) publishing independent reports and making recommendations on any issue relating to such discrimination.

### CHAPTER IV

#### FINAL PROVISIONS

##### Article 13

##### Compliance

Member States shall take the necessary measures to ensure that the principle of equal treatment is respected in relation to the access to and supply of goods and services within the scope of this Directive, and in particular that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;

- (b) any contractual provisions, internal rules of undertakings, and rules governing profit-making or non-profit-making associations contrary to the principle of equal treatment are, or may be, declared null and void or are amended.

##### Article 14

##### Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are applied. The penalties, which may comprise the payment of compensation to the victim, shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 21 December 2007 at the latest and shall notify it without delay of any subsequent amendment affecting them.

##### Article 15

##### Dissemination of information

Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the persons concerned by all appropriate means throughout their territory.

*Article 16***Reports**

1. Member States shall communicate all available information concerning the application of this Directive to the Commission, by 21 December 2009, and every five years thereafter.

The Commission shall draw up a summary report, which shall include a review of the current practices of Member States in relation to Article 5 with regard to the use of sex as a factor in the calculation of premiums and benefits. It shall submit this report to the European Parliament and to the Council no later than 21 December 2010. Where appropriate, the Commission shall accompany its report with proposals to modify the Directive.

2. The Commission's report shall take into account the viewpoints of relevant stakeholders.

*Article 17***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 21 December 2007 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such publication of reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 18***Entry into force**

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

*Article 19***Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 13 December 2004.

*For the Council*  
*The President*  
B. R. BOT

**DIRECTIVE 2002/73/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 23 September 2002**

**amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment  
for men and women as regards access to employment, vocational training and promotion, and  
working conditions**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community and, in particular, Article 141(3) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the Opinion of the Economic and Social  
Committee <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article  
251 of the Treaty <sup>(3)</sup>, in the light of the joint text approved by  
the Conciliation Committee on 19 April 2002,

Whereas:

- (1) In accordance with Article 6 of the Treaty on European  
Union, the European Union is founded on the principles  
of liberty, democracy, respect for human rights and  
fundamental freedoms, and the rule of law, principles  
which are common to the Member States, and shall  
respect fundamental rights as guaranteed by the Euro-  
pean Convention for the Protection of Human Rights  
and Fundamental Freedoms and as they result from the  
constitutional traditions common to the Member States,  
as general principles of Community law.
- (2) The right to equality before the law and protection  
against discrimination for all persons constitutes a  
universal right recognised by the Universal Declaration  
of Human Rights, the United Nations Convention on the  
Elimination of all forms of Discrimination Against  
Women, the International Convention on the Elimina-  
tion of all Forms of Racial Discrimination and the  
United Nations Covenants on Civil and Political Rights  
and on Economic, Social and Cultural Rights and by the  
Convention for the Protection of Human Rights and  
Fundamental Freedoms, to which all Member States are  
signatories.
- (3) This Directive respects the fundamental rights and  
observes the principles recognised in particular by the  
Charter of Fundamental Rights of the European Union.
- (4) Equality between women and men is a fundamental  
principle, under Article 2 and Article 3(2) of the EC  
Treaty and the case-law of the Court of Justice. These

Treaty provisions proclaim equality between women and  
men as a 'task' and an 'aim' of the Community and  
impose a positive obligation to 'promote' it in all its  
activities.

- (5) Article 141 of the Treaty, and in particular paragraph 3,  
addresses specifically equal opportunities and equal  
treatment of men and women in matters of employment  
and occupation.
- (6) Council Directive 76/207/EEC <sup>(4)</sup> does not define the  
concepts of direct or indirect discrimination. On the  
basis of Article 13 of the Treaty, the Council has  
adopted Directive 2000/43/EC of 29 June 2000 imple-  
menting the principle of equal treatment between  
persons irrespective of racial or ethnic origin <sup>(5)</sup> and  
Directive 2000/78/EC of 27 November 2000 estab-  
lishing a general framework for equal treatment in  
employment and occupation <sup>(6)</sup> which define direct and  
indirect discrimination. Thus it is appropriate to insert  
definitions consistent with these Directives in respect of  
sex.
- (7) This Directive does not prejudice freedom of association,  
including the right to establish unions with others and  
to join unions to defend one's interests. Measures within  
the meaning of Article 141(4) of the Treaty may include  
membership or the continuation of the activity of organ-  
isations or unions whose main objective is the promo-  
tion, in practice, of the principle of equal treatment  
between women and men.
- (8) Harassment related to the sex of a person and sexual  
harassment are contrary to the principle of equal treat-  
ment between women and men; it is therefore appro-  
priate to define such concepts and to prohibit such  
forms of discrimination. To this end it must be emphas-  
ised that these forms of discrimination occur not only in  
the workplace, but also in the context of access to  
employment and vocational training, during employ-  
ment and occupation.
- (9) In this context, employers and those responsible for  
vocational training should be encouraged to take meas-  
ures to combat all forms of sexual discrimination and, in

<sup>(1)</sup> OJ C 337 E, 28.11.2000, p. 204 and OJ C 270 E, 25.9.2001, p. 9.

<sup>(2)</sup> OJ C 123, 25.4.2001, p. 81.

<sup>(3)</sup> Opinion of the European Parliament of 31 May 2001 (OJ C 47, 21.2.2002, p. 19), Council Common Position of 23 July 2001 (OJ C 307, 31.10.2001, p. 5) and Decision of the European Parliament of 24 October 2001 (OJ C 112 E, 9.5.2002, p. 14), Decision of the European Parliament of 12 June 2002 and Council Decision of 13 June 2002.

<sup>(4)</sup> OJ L 39, 14.2.1976, p. 40.

<sup>(5)</sup> OJ L 180, 19.7.2000, p. 22.

<sup>(6)</sup> OJ L 303, 2.12.2000, p. 16.

particular, to take preventive measures against harassment and sexual harassment in the workplace, in accordance with national legislation and practice.

- (10) The appreciation of the facts from which it may be inferred that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with rules of national law or practice. Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical evidence. According to the case-law of the Court of Justice <sup>(1)</sup>, discrimination involves the application of different rules to a comparable situation or the application of the same rule to different situations.
- (11) The occupational activities that Member States may exclude from the scope of Directive 76/207/EEC should be restricted to those which necessitate the employment of a person of one sex by reason of the nature of the particular occupational activities concerned, provided that the objective sought is legitimate, and subject to the principle of proportionality as laid down by the case-law of the Court of Justice <sup>(2)</sup>.
- (12) The Court of Justice has consistently recognised the legitimacy, in terms of the principle of equal treatment, of protecting a woman's biological condition during and after pregnancy. It has moreover consistently ruled that any unfavourable treatment of women related to pregnancy or maternity constitutes direct sex discrimination. This Directive is therefore without prejudice to Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding <sup>(3)</sup> (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), which aims to ensure the protection of the physical and mental state of women who are pregnant, women who have recently given birth or women who are breastfeeding. The preamble to Directive 92/85/EEC provides that the protection of the safety and health of pregnant workers, workers who have recently given birth or workers who are breastfeeding should not involve treating women who are on the labour market unfavourably nor work to the detriment of Directives concerning equal treatment for men and women. The Court of Justice has recognised the protection of employment rights of women, in particular their right to return to the same or an equivalent job, with no less favourable working conditions, as well as to benefit from any improvement in working conditions to which they would be entitled during their absence.
- (13) In the Resolution of the Council and of the Ministers for Employment and Social Policy meeting within the Council of 29 June 2000 on the balanced participation of women and men in family and working life <sup>(4)</sup>, Member States were encouraged to consider examining the scope for their respective legal systems to grant working men an individual and untransferable right to paternity leave, while maintaining their rights relating to employment. In this context, it is important to stress that it is for the Member States to determine whether or not to grant such a right and also to determine any conditions, other than dismissal and return to work, which are outside the scope of this Directive.
- (14) Member States may, under Article 141(4) of the Treaty, maintain or adopt measures providing for specific advantages, in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers. Given the current situation, and bearing in mind Declaration No 28 to the Amsterdam Treaty, Member States should, in the first instance, aim at improving the situation of women in working life.
- (15) The prohibition of discrimination should be without prejudice to the maintenance or adoption of measures intended to prevent or compensate for disadvantages suffered by a group of persons of one sex. Such measures permit organisations of persons of one sex where their main object is the promotion of the special needs of those persons and the promotion of equality between women and men.
- (16) The principle of equal pay for men and women is already firmly established by Article 141 of the Treaty and Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women <sup>(5)</sup> and is consistently upheld by the case-law of the Court of Justice; the principle constitutes an essential and indispensable part of the *acquis communautaire* concerning sex discrimination.
- (17) The Court of Justice has ruled that, having regard to the fundamental nature of the right to effective judicial protection, employees enjoy such protection even after the employment relationship has ended <sup>(6)</sup>. An employee defending or giving evidence on behalf of a person protected under this Directive should be entitled to the same protection.

<sup>(1)</sup> Case C-394/96 *Brown*, [1998] ECR I-4185, Case C-342/93 *Gillespie*, [1996] ECR I-475.

<sup>(2)</sup> Case C-222/84 *Johnston*, [1986] ECR 1651, Case C-273/97 *Sirdar* [1999] ECR I-7403 and Case C-285/98 *Kreil* [2000] ECR I-69.

<sup>(3)</sup> OJ L 348, 28.11.1992, p. 1.

<sup>(4)</sup> OJ C 218, 31.7.2000, p. 5.

<sup>(5)</sup> OJ L 45, 19.2.1975, p. 19.

<sup>(6)</sup> Case C-185/97 *Coote* [1998] ECR I-5199.

- (18) The Court of Justice has ruled that, in order to be effective, the principle of equal treatment implies that, whenever it is breached, the compensation awarded to the employee discriminated against must be adequate in relation to the damage sustained. It has furthermore specified that fixing a prior upper limit may preclude effective compensation and that excluding an award of interest to compensate for the loss sustained is not allowed <sup>(1)</sup>.
- (19) According to the case-law of the Court of Justice, national rules relating to time limits for bringing actions are admissible provided that they are not less favourable than time limits for similar actions of a domestic nature and that they do not render the exercise of rights conferred by the Community law impossible in practice.
- (20) Persons who have been subject to discrimination based on sex should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should also be empowered to engage in proceedings, as the Member States so determine, either on behalf or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.
- (21) Member States should promote dialogue between the social partners and, within the framework of national practice, with non-governmental organisations to address different forms of discrimination based on sex in the workplace and to combat them.
- (22) Member States should provide for effective, proportionate and dissuasive sanctions in case of breaches of the obligations under Directive 76/207/EEC.
- (23) In accordance with the principle of subsidiarity as set out in Article 5 of the Treaty, the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary for that purpose.
- (24) Directive 76/207/EEC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 76/207/EEC is hereby amended as follows:

1. in Article 1, the following paragraph shall be inserted:

'1a. Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative

provisions, policies and activities in the areas referred to in paragraph 1.;

2. Article 2 shall be replaced by the following:

#### 'Article 2

1. For the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.

2. For the purposes of this Directive, the following definitions shall apply:

— direct discrimination: where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation,

— indirect discrimination: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary,

— harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment,

— sexual harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

3. Harassment and sexual harassment within the meaning of this Directive shall be deemed to be discrimination on the grounds of sex and therefore prohibited.

A person's rejection of, or submission to, such conduct may not be used as a basis for a decision affecting that person.

4. An instruction to discriminate against persons on grounds of sex shall be deemed to be discrimination within the meaning of this Directive.

5. Member States shall encourage, in accordance with national law, collective agreements or practice, employers and those responsible for access to vocational training to take measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment at the workplace.

<sup>(1)</sup> Case C-180/95, Draehmpaehl, [1997] ECR I-2195, Case C-271/91, Marshall [1993] ECR I-4367.

6. Member States may provide, as regards access to employment including the training leading thereto, that a difference of treatment which is based on a characteristic related to sex shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

7. This Directive shall be without prejudice to provisions concerning the protection of women, particularly as regards pregnancy and maternity.

A woman on maternity leave shall be entitled, after the end of her period of maternity leave, to return to her job or to an equivalent post on terms and conditions which are no less favourable to her and to benefit from any improvement in working conditions to which she would be entitled during her absence.

Less favourable treatment of a woman related to pregnancy or maternity leave within the meaning of Directive 92/85/EEC shall constitute discrimination within the meaning of this Directive.

This Directive shall also be without prejudice to the provisions of Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC (\*) and of Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC (\*\*). It is also without prejudice to the right of Member States to recognise distinct rights to paternity and/or adoption leave. Those Member States which recognise such rights shall take the necessary measures to protect working men and women against dismissal due to exercising those rights and ensure that, at the end of such leave, they shall be entitled to return to their jobs or to equivalent posts on terms and conditions which are no less favourable to them, and to benefit from any improvement in working conditions to which they would have been entitled during their absence.

8. Member States may maintain or adopt measures within the meaning of Article 141(4) of the Treaty with a view to ensuring full equality in practice between men and women.

(\*) OJ L 145, 19.6.1996, p. 4.

(\*\*) OJ L 348, 28.11.1992, p. 1.;

3. Article 3 shall be replaced by the following:

*Article 3*

1. Application of the principle of equal treatment means that there shall be no direct or indirect discrimination on the grounds of sex in the public or private sectors, including public bodies, in relation to:

- (a) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;
- (b) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
- (c) employment and working conditions, including dismissals, as well as pay as provided for in Directive 75/117/EEC;
- (d) membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.

2. To that end, Member States shall take the necessary measures to ensure that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- (b) any provisions contrary to the principle of equal treatment which are included in contracts or collective agreements, internal rules of undertakings or rules governing the independent occupations and professions and workers' and employers' organisations shall be, or may be declared, null and void or are amended.;

4. Articles 4 and 5 shall be deleted;

5. Article 6 shall be replaced by the following:

*Article 6*

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

2. Member States shall introduce into their national legal systems such measures as are necessary to ensure real and effective compensation or reparation as the Member States so determine for the loss and damage sustained by a person injured as a result of discrimination contrary to Article 3, in a way which is dissuasive and proportionate to the damage suffered; such compensation or reparation may not be restricted by the fixing of a prior upper limit, except in cases where the employer can prove that the only damage suffered by an applicant as a result of discrimination within the meaning of this Directive is the refusal to take his/her job application into consideration.

3. Member States shall ensure that associations, organisations or other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainants, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.

4. Paragraphs 1 and 3 are without prejudice to national rules relating to time limits for bringing actions as regards the principle of equal treatment.;

6. Article 7 shall be replaced by the following:

*Article 7*

Member States shall introduce into their national legal systems such measures as are necessary to protect employees, including those who are employees' representatives provided for by national laws and/or practices, against dismissal or other adverse treatment by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment.;

7. the following Articles shall be inserted:

*Article 8a*

1. Member States shall designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights.

2. Member States shall ensure that the competences of these bodies include:

- (a) without prejudice to the right of victims and of associations, organisations or other legal entities referred to in Article 6(3), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination;
- (b) conducting independent surveys concerning discrimination;
- (c) publishing independent reports and making recommendations on any issue relating to such discrimination.

*Article 8b*

1. Member States shall, in accordance with national traditions and practice, take adequate measures to promote social dialogue between the social partners with a view to fostering equal treatment, including through the monitoring of workplace practices, collective agreements, codes of conduct, research or exchange of experiences and good practices.

2. Where consistent with national traditions and practice, Member States shall encourage the social partners, without prejudice to their autonomy, to promote equality between women and men and to conclude, at the appropriate level, agreements laying down anti-discrimination rules in the fields referred to in Article 1 which fall within the scope of collective bargaining. These agreements shall respect the minimum requirements laid down by this Directive and the relevant national implementing measures.

3. Member States shall, in accordance with national law, collective agreements or practice, encourage employers to promote equal treatment for men and women in the workplace in a planned and systematic way.

4. To this end, employers should be encouraged to provide at appropriate regular intervals employees and/or their representatives with appropriate information on equal treatment for men and women in the undertaking.

Such information may include statistics on proportions of men and women at different levels of the organisation and possible measures to improve the situation in cooperation with employees' representatives.

*Article 8c*

Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of sex with a view to promoting the principle of equal treatment.

*Article 8d*

Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied.

The sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 5 October 2005 at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 8e*

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.

2. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields covered by this Directive.'



*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 5 October 2005 at the latest or shall ensure, by that date at the latest, that management and labour introduce the requisite provisions by way of agreement. Member States shall take all necessary steps to enable them at all times to guarantee the results imposed by this Directive. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. The Member States shall communicate to the Commission, within three years of the entry into force of this Directive, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

3. Without prejudice to paragraph 2, Member States shall communicate to the Commission, every four years, the texts of laws, regulations and administrative provisions of any

measures adopted pursuant to Article 141(4) of the Treaty, as well as reports on these measures and their implementation. On the basis of that information, the Commission will adopt and publish every four years a report establishing a comparative assessment of any measures in the light of Declaration No 28 annexed to the Final Act of the Treaty of Amsterdam.

*Article 3*

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 23 September 2002.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

M. FISCHER BOEL

## COUNCIL DIRECTIVE 97/80/EC

of 15 December 1997

on the burden of proof in cases of discrimination based on sex

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy annexed to the Protocol (No 14) on social policy annexed to the Treaty establishing the European Community, and in particular Article 2(2) thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Acting, in accordance with the procedure laid down in Article 189c of the Treaty, in cooperation with the European Parliament <sup>(3)</sup>,

- (1) Whereas, on the basis of the Protocol on social policy annexed to the Treaty, the Member States, with the exception of the United Kingdom of Great Britain and Northern Ireland (hereinafter called 'the Member States'), wishing to implement the 1989 Social Charter, have concluded an Agreement on social policy;
- (2) Whereas the Community Charter of the Fundamental Social Rights of Workers recognizes the importance of combating every form of discrimination, including discrimination on grounds of sex, colour, race, opinions and beliefs;
- (3) Whereas paragraph 16 of the Community Charter of the Fundamental Social Rights of Workers on equal treatment for men and women, provides, *inter alia*, that 'action should be intensified to ensure the implementation of the principle of equality for men and women as regards, in particular, access to employment, remuneration, working conditions, social protection, education, vocational training and career development';
- (4) Whereas, in accordance with Article 3(2) of the Agreement on social policy, the Commission has consulted management and labour at Community level on the possible direction of Community action on the burden of proof in cases of discrimination based on sex;
- (5) Whereas the Commission, considering Community action advisable after such consultation, once again consulted management and labour on the content of

the proposal contemplated in accordance with Article 3(3) of the same Agreement; whereas the latter have sent their opinions to the Commission;

- (6) Whereas, after the second round of consultation, neither management nor labour have informed the Commission of their wish to initiate the process — possibly leading to an agreement — provided for in Article 4 of the same Agreement;
- (7) Whereas, in accordance with Article 1 of the Agreement, the Community and the Member States have set themselves the objective, *inter alia*, of improving living and working conditions; whereas effective implementation of the principle of equal treatment for men and women would contribute to the achievement of that aim;
- (8) Whereas the principle of equal treatment was stated in Article 119 of the Treaty, in Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women <sup>(4)</sup> and in Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions <sup>(5)</sup>;
- (9) Whereas Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding <sup>(6)</sup> also contributes to the effective implementation of the principle of equal treatment for men and women; whereas that Directive should not work to the detriment of the aforementioned Directives on equal treatment; whereas, therefore, female workers covered by that Directive should likewise benefit from the adaptation of the rules on the burden of proof;

<sup>(1)</sup> OJ C 332, 7. 11. 1996, p. 11 and

OJ C 185, 18. 6. 1997, p. 21.

<sup>(2)</sup> OJ C 133, 28. 4. 1997, p. 34.

<sup>(3)</sup> Opinion of the European Parliament of 10 April 1997 (OJ C 132, 28. 4. 1997, p. 215), Common Position of the Council of 24 July 1997 (OJ C 307, 8. 10. 1997, p. 6) and Decision of the European Parliament of 6 November 1997 (OJ C 358, 24. 11. 1997).

<sup>(4)</sup> OJ L 45, 19. 2. 1975, p. 19.

<sup>(5)</sup> OJ L 39, 14. 2. 1976, p. 40.

<sup>(6)</sup> OJ L 348, 28. 11. 1992, p. 1.

- (10) Whereas Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC<sup>(1)</sup>, is also based on the principle of equal treatment for men and women;
- (11) Whereas the references to 'judicial process' and 'court' cover mechanisms by means of which disputes may be submitted for examination and decision to independent bodies which may hand down decisions that are binding on the parties to those disputes;
- (12) Whereas the expression 'out-of-court procedures' means in particular procedures such as conciliation and mediation;
- (13) Whereas the appreciation of the facts from which it may be presumed that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with national law or practice;
- (14) Whereas it is for the Member States to introduce, at any appropriate stage of the proceedings, rules of evidence which are more favourable to plaintiffs;
- (15) Whereas it is necessary to take account of the specific features of certain Member States' legal systems, *inter alia* where an inference of discrimination is drawn if the respondent fails to produce evidence that satisfies the court or other competent authority that there has been no breach of the principle of equal treatment;
- (16) Whereas Member States need not apply the rules on the burden of proof to proceedings in which it is for the court or other competent body to investigate the facts of the case; whereas the procedures thus referred to are those in which the plaintiff is not required to prove the facts, which it is for the court or competent body to investigate;
- (17) Whereas plaintiffs could be deprived of any effective means of enforcing the principle of equal treatment before the national courts if the effect of introducing evidence of an apparent discrimination were not to impose upon the respondent the burden of proving that his practice is not in fact discriminatory;
- (18) Whereas the Court of Justice of the European Communities has therefore held that the rules on the burden of proof must be adapted when there is a *prima facie* case of discrimination and that, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the

respondent when evidence of such discrimination is brought;

- (19) Whereas it is all the more difficult to prove discrimination when it is indirect; whereas it is therefore important to define indirect discrimination;
- (20) Whereas the aim of adequately adapting the rules on the burden of proof has not been achieved satisfactorily in all Member States and, in accordance with the principle of subsidiarity stated in Article 3b of the Treaty and with that of proportionality, that aim must be attained at Community level; whereas this Directive confines itself to the minimum action required and does not go beyond what is necessary for that purpose,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

##### Aim

The aim of this Directive shall be to ensure that the measures taken by the Member States to implement the principle of equal treatment are made more effective, in order to enable all persons who consider themselves wronged because the principle of equal treatment has not been applied to them to have their rights asserted by judicial process after possible recourse to other competent bodies.

#### Article 2

##### Definitions

- For the purposes of this Directive, the principle of equal treatment shall mean that there shall be no discrimination whatsoever based on sex, either directly or indirectly.
- For purposes of the principle of equal treatment referred to in paragraph 1, indirect discrimination shall exist where an apparently neutral provision, criterion or practice disadvantages a substantially higher proportion of the members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex.

#### Article 3

##### Scope

- This Directive shall apply to:
  - the situations covered by Article 119 of the Treaty and by Directives 75/117/EEC, 76/207/EEC and, insofar as discrimination based on sex is concerned, 92/85/EEC and 96/34/EC;

<sup>(1)</sup> OJ L 145, 19. 6. 1996, p. 4.

- (b) any civil or administrative procedure concerning the public or private sector which provides for means of redress under national law pursuant to the measures referred to in (a) with the exception of out-of-court procedures of a voluntary nature or provided for in national law.

2. This Directive shall not apply to criminal procedures, unless otherwise provided by the Member States.

#### *Article 4*

##### **Burden of proof**

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

2. This Directive shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

3. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.

#### *Article 5*

##### **Information**

Member States shall ensure that measures taken pursuant to this Directive, together with the provisions already in force, are brought to the attention of all the persons concerned by all appropriate means.

#### *Article 6*

##### **Non-regression**

Implementation of this Directive shall under no circumstances be sufficient grounds for a reduction in the general level of protection of workers in the areas to which it applies, without prejudice to the Member States' right to respond to changes in the situation by introducing laws, regulations and administrative provisions which differ from those in force on the notification of this Directive, provided that the minimum requirements of this Directive are complied with.

#### *Article 7*

##### **Implementation**

The Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive by 1 January 2001. They shall immediately inform the Commission thereof.

When the Member States adopt those measures they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such references shall be laid down by the Member States.

The Member States shall communicate to the Commission, within two years of the entry into force of this Directive, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

#### *Article 8*

This Directive is addressed to the Member States.

Done at Brussels, 15 December 1997.

*For the Council*

*The President*

J.-C. JUNCKER

## COUNCIL DIRECTIVE 97/75/EC

of 15 December 1997

amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the Council, acting in accordance with the Agreement on social policy annexed to Protocol 14 to the Treaty, and in particular Article 4(2) thereof, adopted Directive 96/34/EC <sup>(4)</sup>; whereas, as a result, the said Directive does not apply to the United Kingdom of Great Britain and Northern Ireland;

Whereas the Amsterdam European Council, held on 16 and 17 June 1997, noted with approval the agreement of the Intergovernmental Conference to incorporate the Agreement on social policy in the Treaty and also noted that a means had to be found to give legal effect to the wish of the United Kingdom of Great Britain and Northern Ireland to accept the Directives already adopted on the basis of that Agreement before the signature of the Amsterdam Treaty; whereas this Directive seeks to achieve this aim by extending Directive 96/34/EC to the United Kingdom;

Whereas the fact that Directive 96/34/EC is not applicable in the United Kingdom directly affects the functioning of the internal market; whereas implementation of the framework agreement annexed to the said Directive and, in particular, the principle of reconciliation of parental and professional responsibilities for working parents, in all the Member States will improve the functioning of the internal market;

Whereas implementation of the framework agreement aims, in particular, at achieving the objective of equal treatment between men and women with regard to labour

opportunities and treatment at work, and the reconciliation of working and family life;

Whereas the adoption of this Directive will make Directive 96/34/EC applicable in the United Kingdom; whereas, from the date on which this Directive enters into force, the term 'Member States' in Directive 96/34/EC should be construed as including the United Kingdom,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Without prejudice to Article 2, Directive 96/34/EC shall apply to the United Kingdom of Great Britain and Northern Ireland.

*Article 2*

The following paragraph shall be inserted in Article 2 of Directive 96/34/EC:

'1a. As regards the United Kingdom of Great Britain and Northern Ireland, the date of 3 June 1998 in paragraph 1 shall be replaced by 15 December 1999.'

*Article 3*

This Directive is addressed to the Member States.

Done at Brussels, 15 December 1997.

*For the Council*

*The President*

J.-C. JUNCKER

<sup>(1)</sup> OJ C 335, 6. 11. 1997.

<sup>(2)</sup> OJ C 371, 8. 12. 1997.

<sup>(3)</sup> OJ C 355, 21. 11. 1997.

<sup>(4)</sup> OJ L 145, 19. 6. 1996, p. 4.

## COUNCIL DIRECTIVE 96/97/EC

of 20 December 1996

amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 119 of the Treaty provides that each Member State shall ensure the application of the principle that men and women should receive equal pay for equal work; whereas 'pay' should be taken to mean the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, from his employer in respect of his employment;

Whereas, in its judgement of 17 May 1990, in Case 262/88: Barber v. Guardian Royal Exchange Assurance Group <sup>(4)</sup>, the Court of Justice of the European Communities acknowledges that all forms of occupational pension constitute an element of pay within the meaning of Article 119 of the Treaty;

Whereas, in the abovementioned judgment, as clarified by the judgment of 14 December 1993 (Case C-110/91: Moroni v. Collo GmbH) <sup>(5)</sup>, the Court interprets Article 119 of the Treaty in such a way that discrimination between men and women in occupational social security schemes is prohibited in general and not only in respect of establishing the age of entitlement to a pension or when an occupational pension is offered by way of compensation for compulsory retirement on economic grounds;

Whereas, in accordance with Protocol 2 concerning Article 119 of the Treaty annexed to the Treaty establishing the European Community, benefits under

occupational social security schemes shall not be considered as remuneration if and in so far as they are attributable to periods of employment prior to 17 May 1990, except in the case of workers or those claiming under them who have, before that date, initiated legal proceedings or raised an equivalent claim under the applicable national law;

Whereas, in its judgments of 28 September 1994 <sup>(6)</sup> (Case C-57/93: Vroege v. NCIV Instituut voor Volkshuisvesting BV and Case C-128/93: Fisscher v. Voorhuis Hengelo BV), the Court ruled that the abovementioned Protocol did not affect the right to join an occupational pension scheme, which continues to be governed by the judgment of 13 May 1986 in Case 170/84: Bilka-Kaufhaus GmbH v. Hartz <sup>(7)</sup>, and that the limitation of the effects in time of the judgment of 17 May 1990 in Case C-262/88: Barber v. Guardian Royal Exchange Assurance Group does not apply to the right to join an occupational pension scheme; whereas the Court also ruled that the national rules relating to time limits for bringing actions under national law may be relied on against workers who assert their right to join an occupational pension scheme, provided that they are not less favourable for that type of action than for similar actions of a domestic nature and that they do not render the exercise of rights conferred by Community law impossible in practice; whereas the Court has also pointed out that the fact that a worker can claim retroactively to join an occupational pension scheme does not allow the worker to avoid paying the contributions relating to the period of membership concerned;

Whereas the exclusion of workers on the grounds of the nature of their work contracts from access to a company or sectorial social security scheme may constitute indirect discrimination against women;

Whereas, in its judgment of 9 November 1993 (Case C-132/92: Birds Eye Walls Ltd v. Friedel M. Roberts) <sup>(8)</sup>, the Court has also specified that it is not contrary to Article 119 of the Treaty, when calculating the amount of a bridging pension which is paid by an employer to male and female employees who have taken early retirement on grounds of ill health and which is intended to

<sup>(1)</sup> OJ No C 218, 23. 8. 1995, p. 5.

<sup>(2)</sup> Opinion delivered on 12 November 1996 (OJ No C 362, 2. 12. 1996).

<sup>(3)</sup> OJ No C 18, 22. 1. 1996, p. 132.

<sup>(4)</sup> [1990] ECR I-1889.

<sup>(5)</sup> [1993] ECR I-6591.

<sup>(6)</sup> [1994] ECR I-4541 and (1994) ECR I-4583, respectively.

<sup>(7)</sup> [1986] ECR I-1607.

<sup>(8)</sup> [1993] ECR I-5579.

compensate, in particular, for loss of income resulting from the fact that they have not yet reached the age required for payment of the State pension which they will subsequently receive and to reduce the amount of the bridging pension accordingly, even though, in the case of men and women aged between 60 and 65, the result is that a female ex-employee receives a smaller bridging pension than that paid to her male counterpart, the difference being equal to the amount of the State pension to which she is entitled as from the age of 60 in respect of the periods of service completed with that employer;

Whereas, in its judgment of 6 October 1993 (Case C-109/91: *Ten Oever v. Stichting Bedrijfspensioenfonds voor het Glazenwassers- en Schoonmaakbedrijf*)<sup>(1)</sup> and in its judgments of 14 December 1993 (Case C-110/91: *Moroni v. Collo GmbH*), 22 December 1993 (Case C-152/91: *Neath v. Hugh Steeper Ltd*)<sup>(2)</sup> and 28 September 1994 (Case C-200/91: *Coloroll Pension Trustees Limited v. Russell and Others*)<sup>(3)</sup>, the Court confirms that, by virtue of the judgment of 17 May 1990 (Case C-262/88: *Barber v. Guardian Royal Exchange Assurance Group*), the direct effect of Article 119 of the Treaty may be relied on, for the purpose of claiming equal treatment in the matter of occupational pensions, only in relation to benefits payable in respect of periods of service subsequent to 17 May 1990, except in the case of workers or those claiming under them who have, before that date, initiated legal proceedings or raised an equivalent claim under the applicable national law;

Whereas, in its abovementioned judgments (Case C-109/91: *Ten Oever v. Stichting Bedrijfspensioenfonds voor het Glazenwassers- en Schoonmaakbedrijf* and Case C-200/91: *Coloroll Pension Trustees Limited v. Russell and Others*), the Court confirms that the limitation of the effects in time of the Barber judgment applies to survivors' pensions and, consequently, equal treatment in this matter may be claimed only in relation to periods of service subsequent to 17 May 1990, except in the case of those who have, before that date, initiated legal proceedings or raised an equivalent claim under the applicable national law;

Whereas, moreover, in its judgments in Case C-152/91 and Case C-200/91, the Court specifies that the contributions of male and female workers to a defined-benefit pension scheme must be the same, since they are covered by Article 119 of the Treaty, whereas inequality of employers' contributions paid under funded

defined-benefit schemes, which is due to the use of actuarial factors differing according to sex, is not to be assessed in the light of that same provision;

Whereas, in its judgments of 28 September 1994<sup>(4)</sup> (Case C-408/92: *Smith v. Advel Systems* and Case C-28/93: *Van den Akker v. Stichting Shell Pensioenfonds*), the Court points out that Article 119 of the Treaty precludes an employer who adopts measures necessary to comply with the Barber judgment of 17 May 1990 (C-262/88) from raising the retirement age for women to that which exists for men in relation to periods of service completed between 17 May 1990 and the date on which those measures come into force; on the other hand, as regards periods of service completed after the latter date, Article 119 does not prevent an employer from taking that step; as regards periods of service prior to 17 May 1990, Community law imposed no obligation which would justify retroactive reduction of the advantages which women enjoyed;

Whereas, in its abovementioned judgment in Case C-200/91: *Coloroll Pension Trustees Limited v. Russell and Others*), the Court ruled that additional benefits stemming from contributions paid by employees on a purely voluntary basis are not covered by Article 119 of the Treaty;

Whereas, among the measures included in its third medium-term action programme on equal opportunities for women and men (1991 to 1995)<sup>(5)</sup>, the Commission emphasizes once more the adoption of suitable measures to take account of the consequences of the judgment of 17 May 1990 in Case 262/88 (*Barber v. Guardian Royal Exchange Assurance Group*);

Whereas that judgment automatically invalidates certain provisions of Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes<sup>(6)</sup> in respect of paid workers;

Whereas Article 119 of the Treaty is directly applicable and can be invoked before the national courts against any employer, whether a private person or a legal person, and whereas it is for these courts to safeguard the rights which that provision confers on individuals;

Whereas, on grounds of legal certainty, it is necessary to amend Directive 86/378/EEC in order to adapt the provisions which are affected by the Barber case-law,

<sup>(1)</sup> [1993] ECR I-4879.

<sup>(2)</sup> [1993] ECR I-6953.

<sup>(3)</sup> [1994] ECR I-4389.

<sup>(4)</sup> [1994] ECR I-4435 and [1994] ECR I-4527, respectively.

<sup>(5)</sup> OJ No C 142, 31. 5. 1991, p. 1.

<sup>(6)</sup> OJ No L 225, 12. 8. 1986, p. 40.

HAS ADOPTED THIS DIRECTIVE:

2. Article 3 shall be replaced by the following:

*Article 1*

Directive 86/378/EEG shall be amended as follows:

1. Article 2 shall be replaced by the following:

*'Article 2*

1. "Occupational social security schemes" means schemes not governed by Directive 79/7/EEC whose purpose is to provide workers, whether employees or self-employed, in an undertaking or group of undertakings, area of economic activity, occupational sector or group of sectors with benefits intended to supplement the benefits provided by statutory social security schemes or to replace them, whether membership of such schemes is compulsory or optional.

2. This Directive does not apply to:

- (a) individual contracts for self-employed workers;
- (b) schemes for self-employed workers having only one member;
- (c) insurance contracts to which the employer is not a party, in the case of salaried workers;
- (d) optional provisions of occupational schemes offered to participants individually to guarantee them:
  - either additional benefits, or
  - a choice of date on which the normal benefits for self-employed workers will start, or a choice between several benefits;
- (e) occupational schemes in so far as benefits are financed by contributions paid by workers on a voluntary basis.

3. This Directive does not preclude an employer granting to persons who have already reached the retirement age for the purposes of granting a pension by virtue of an occupational scheme, but who have not yet reached the retirement age for the purposes of granting a statutory retirement pension, a pension supplement, the aim of which is to make equal or more nearly equal the overall amount of benefit paid to these persons in relation to the amount paid to persons of the other sex in the same situation who have already reached the statutory retirement age, until the persons benefiting from the supplement reach the statutory retirement age.'

*'Article 3*

This Directive shall apply to members of the working population, including self-employed persons, persons whose activity is interrupted by illness, maternity, accident or involuntary unemployment and persons seeking employment, to retired and disabled workers and to those claiming under them, in accordance with national law and/or practice.'

3. Article 6 shall be replaced by the following:

*'Article 6*

1. Provisions contrary to the principle of equal treatment shall include those based on sex, either directly or indirectly, in particular by reference to marital or family status, for:

- (a) determining the persons who may participate in an occupational scheme;
- (b) fixing the compulsory or optional nature of participation in an occupational scheme;
- (c) laying down different rules as regards the age of entry into the scheme or the minimum period of employment or membership of the scheme required to obtain the benefits thereof;
- (d) laying down different rules, except as provided for in points (h) and (i), for the reimbursement of contributions when a worker leaves a scheme without having fulfilled the conditions guaranteeing a deferred right to long-term benefits;
- (e) setting different conditions for the granting of benefits or restricting such benefits to workers of one or other of the sexes;
- (f) fixing different retirement ages;
- (g) suspending the retention or acquisition of rights during periods of maternity leave or leave for family reasons which are granted by law or agreement and are paid by the employer;
- (h) setting different levels of benefit, except in so far as may be necessary to take account of actuarial calculation factors which differ according to sex in the case of defined-contribution schemes.



In the case of funded defined-benefit schemes, certain elements (examples of which are annexed) may be unequal where the inequality of the amounts results from the effects of the use of actuarial factors differing according to sex at the time when the scheme's funding is implemented;

- (i) setting different levels for workers' contributions;

setting different levels for employers' contributions, except:

- in the case of defined-contribution schemes if the aim is to equalize the amount of the final benefits or to make them more nearly equal for both sexes,
- in the case of funded defined-benefit schemes where the employer's contributions are intended to ensure the adequacy of the funds necessary to cover the cost of the benefits defined,

- (j) laying down different standards or standards applicable only to workers of a specified sex, except as provided for in points (h) and (i), as regards the guarantee or retention of entitlement to deferred benefits when a worker leaves a scheme.

2. Where the granting of benefits within the scope of this Directive is left to the discretion of the scheme's management bodies, the latter must comply with the principle of equal treatment.'

4. Article 8 shall be replaced by the following:

*'Article 8*

1. Member States shall take the necessary steps to ensure that the provisions of occupational schemes for self-employed workers contrary to the principle of equal treatment are revised with effect from 1 January 1993 at the latest.

2. This Directive shall not preclude rights and obligations relating to a period of membership of an occupational scheme for self-employed workers prior to revision of that scheme from remaining subject to the provisions of the scheme in force during that period.'

5. Article 9 shall be replaced by the following:

*'Article 9*

As regards schemes for self-employed workers, Member States may defer compulsory application of the principle of equal treatment with regard to:

- (a) determination of pensionable age for the granting of old-age or retirement pensions, and the possible implications for other benefits:
  - either until the date on which such equality is achieved in statutory schemes,
  - or, at the latest, until such equality is prescribed by a directive;
- (b) survivors' pensions until Community law establishes the principle of equal treatment in statutory social security schemes in that regard;
- (c) the application of the first subparagraph of point (i) of Article 6 (1) to take account of the different actuarial calculation factors, at the latest until 1 January 1999.'

6. The following Article shall be inserted:

*'Article 9a*

Where men and women may claim a flexible pensionable age under the same conditions, this shall not be deemed to be incompatible with this Directive.'

7. The following Annex shall be added:

*'ANNEX*

Examples of elements which may be unequal, in respect of funded defined-benefit schemes, as referred to in Article 6 (h):

- conversion into a capital sum of part of a periodic pension,
- transfer of pension rights,
- a reversionary pension payable to a dependant in return for the surrender of part of a pension,
- a reduced pension where the worker opts to take early retirement.'

*Article 2*

1. Any measure implementing this Directive, as regards paid workers, must cover all benefits derived from periods of employment subsequent to 17 May 1990 and shall apply retroactively to that date, without prejudice to workers or those claiming under them who have, before that date, initiated legal proceedings or raised an equivalent claim under national law. In that event, the implementation measures must apply retroactively to 8 April 1976 and must cover all the benefits derived from periods of employment after that date. For Member States which acceded to the Community after 8 April 1976, that date shall be replaced by the date on which Article 119 of the Treaty became applicable on their territory.

2. The second sentence of paragraph 1 shall not prevent national rules relating to time limits for bringing actions under national law from being relied on against workers or those claiming under them who initiated legal proceedings or raise an equivalent claim under national law before 17 May 1990, provided that they are not less favourable for that type of action than for similar actions of a domestic nature and that they do not render the exercise of Community law impossible in practice.

3. For Member States whose accession took place after 17 May 1990 and who were on 1 January 1994 Contracting Parties to the Agreement on the European Economic Area, the date of 17 May 1990 in paragraph 1 and 2 of this Directive is replaced by 1 January 1994.

#### *Article 3*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 1997. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, they shall contain a reference to this Directive or be accompanied

by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission, at the latest two years after the entry into force of this Directive, all information necessary to enable the Commission to draw up a report on the application of this Directive.

#### *Article 4*

This Directive shall enter into force on the 20 day following that of its publication in the *Official Journal of the European Communities*.

#### *Article 5*

This Directive is addressed to the Member States.

Done at Brussels, 20 December 1996.

*For the Council*

*The President*

S. BARRETT

Corrigendum to Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes

*(Official Journal of the European Communities L 46 of 17 February 1997)*

On page 23, in Article 2(1), last sentence:

*for:* 'For Member States which acceded to the Community after 8 April 1976, ...',

*read:* 'For Member States which acceded to the Community after 8 April 1976, and before 17 May 1990,'.

On page 24, in Article 2(3):

*for:* '... the date of 17 May 1990 in paragraph 1 and 2 of the Directive is replaced ...',

*read:* '... the date of 17 May 1990 in the first sentence of paragraph 1 of this Article is replaced ...'.

## COUNCIL DIRECTIVE 96/34/EC

of 3 June 1996

on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Agreement on social policy, annexed to the Protocol (No 14) on social policy, annexed to the Treaty establishing the European Community, and in particular Article 4 (2) thereof,

Having regard to the proposal from the Commission,

- (1) Whereas on the basis of the Protocol on social policy, the Member States, with the exception of the United Kingdom of Great Britain and Northern Ireland, (hereinafter referred to as 'the Member States'), wishing to pursue the course mapped out by the 1989 Social Charter have concluded an Agreement on social policy amongst themselves;
- (2) Whereas management and labour may, in accordance with Article 4 (2) of the Agreement on social policy, request jointly that agreements at Community level be implemented by a Council decision on a proposal from the Commission;
- (3) Whereas paragraph 16 of the Community Charter of the Fundamental Social Rights of Workers on equal treatment for men and women provides, *inter alia*, that 'measures should also be developed enabling men and women to reconcile their occupational and family obligations';
- (4) Whereas the Council, despite the existence of a broad consensus, has not been able to act on the proposal for a Directive on parental leave for family reasons<sup>(1)</sup>, as amended<sup>(2)</sup> on 15 November 1984;
- (5) Whereas the Commission, in accordance with Article 3 (2) of the Agreement on social policy, consulted management and labour on the possible direction of Community action with regard to reconciling working and family life;
- (6) Whereas the Commission, considering after such consultation that Community action was desirable, once again consulted management and labour on the substance of the envisaged proposal in accordance with Article 3 (3) of the said Agreement;
- (7) Whereas the general cross-industry organizations (Unice, CEEP and the ETUC) informed the Commission in their joint letter of 5 July 1995 of

their desire to initiate the procedure provided for by Article 4 of the said Agreement;

- (8) Whereas the said cross-industry organizations concluded, on 14 December 1995, a framework agreement on parental leave; whereas they have forwarded to the Commission their joint request to implement this framework agreement by a Council Decision on a proposal from the Commission in accordance with Article 4 (2) of the said Agreement;
- (9) Whereas the Council, in its Resolution of 6 December 1994 on certain aspects for a European Union social policy; a contribution to economic and social convergence in the Union<sup>(3)</sup>, asked the two sides of industry to make use of the possibilities for concluding agreements, since they are as a rule closer to social reality and to social problems; whereas in Madrid, the members of the European Council from those States which have signed the Agreement on social policy welcomed the conclusion of this framework agreement;
- (10) Whereas the signatory parties wanted to conclude a framework agreement setting out minimum requirements on parental leave and time off from work on grounds of *force majeure* and referring back to the Member States and/or management and labour for the definition of the conditions under which parental leave would be implemented, in order to take account of the situation, including the situation with regard to family policy, existing in each Member State, particularly as regards the conditions for granting parental leave and exercise of the right to parental leave;
- (11) Whereas the proper instrument for implementing this framework agreement is a Directive within the meaning of Article 189 of the Treaty; whereas it is therefore binding on the Member States as to the result to be achieved, but leaves them the choice of form and methods;
- (12) Whereas, in keeping with the principle of subsidiarity and the principle of proportionality as set out in Article 3b of the Treaty, the objectives of this Directive cannot be sufficiently achieved by the Member States and can therefore be better achieved by the Community; whereas this Directive is confined to the minimum required to achieve these objectives and does not go beyond what is necessary to achieve that purpose;

<sup>(1)</sup> OJ No C 333, 9. 12. 1983, p. 6.

<sup>(2)</sup> OJ No C 316, 27. 11. 1984, p. 7.

<sup>(3)</sup> OJ No C 368, 23. 12. 1994, p. 6.

- (13) Whereas the Commission has drafted its proposal for a Directive, taking into account the representative status of the signatory parties, their mandate and the legality of the clauses of the framework agreement and compliance with the relevant provisions concerning small and medium-sized undertakings;
- (14) Whereas the Commission, in accordance with its Communication of 14 December 1993 concerning the implementation of the Protocol on social policy, informed the European Parliament by sending it the text of the framework agreement, accompanied by its proposal for a Directive and the explanatory memorandum;
- (15) Whereas the Commission also informed the Economic and Social Committee by sending it the text of the framework agreement, accompanied by its proposal for a Directive and the explanatory memorandum;
- (16) Whereas clause 4 point 2 of the framework agreement states that the implementation of the provisions of this agreement does not constitute valid grounds for reducing the general level of protection afforded to workers in the field of this agreement. This does not prejudice the right of Member States and/or management and labour to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances (including the introduction of non-transferability), as long as the minimum requirements provided for in the present agreement are complied with;
- (17) Whereas the Community Charter of the Fundamental Social Rights of Workers recognizes the importance of the fight against all forms of discrimination, especially based on sex, colour, race, opinions and creeds;
- (18) Whereas Article F (2) of the Treaty on European Union provides that 'the Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law';
- (19) Whereas the Member States can entrust management and labour, at their joint request, with the implementation of this Directive, as long as they take all the necessary steps to ensure that they can at all times guarantee the results imposed by this Directive;
- (20) Whereas the implementation of the framework agreement contributes to achieving the objectives under Article 1 of the Agreement on social policy,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

**Implementation of the framework agreement**

The purpose of this Directive is to put into effect the annexed framework agreement on parental leave concluded on 14 December 1995 between the general cross-industry organizations (Unice, CEEP and the ETUC).

*Article 2*

**Final provisions**

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 3 June 1998 at the latest or shall ensure by that date at the latest that management and labour have introduced the necessary measures by agreement, the Member States being required to take any necessary measure enabling them at any time to be in a position to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.

2. The Member States may have a maximum additional period of one year, if this is necessary to take account of special difficulties or implementation by a collective agreement.

They must forthwith inform the Commission of such circumstances.

3. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

*Article 3*

This Directive is addressed to the Member States.

Done at Luxembourg, 3 June 1996.

*For the Council*

*The President*

T. TREU

## ANNEX

## FRAMEWORK AGREEMENT ON PARENTAL LEAVE

## PREAMBLE

The enclosed framework agreement represents an undertaking by Unice, CEEP and the ETUC to set out minimum requirements on parental leave and time off from work on grounds of *force majeure*, as an important means of reconciling work and family life and promoting equal opportunities and treatment between men and women.

ETUC, Unice and CEEP request the Commission to submit this framework agreement to the Council for a Council Decision making these minimum requirements binding in the Member States of the European Community, with the exception of the United Kingdom of Great Britain and Northern Ireland.

## I. GENERAL CONSIDERATIONS

1. Having regard to the Agreement on social policy annexed to the Protocol on social policy, annexed to the Treaty establishing the European Community, and in particular Articles 3 (4) and 4 (2) thereof;
2. Whereas Article 4 (2) of the Agreement on social policy provides that agreements concluded at Community level shall be implemented, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission;
3. Whereas the Commission has announced its intention to propose a Community measure on the reconciliation of work and family life;
4. Whereas the Community Charter of Fundamental Social Rights stipulates at point 16 dealing with equal treatment that measures should be developed to enable men and women to reconcile their occupational and family obligations;
5. Whereas the Council Resolution of 6 December 1994 recognizes that an effective policy of equal opportunities presupposes an integrated overall strategy allowing for better organization of working hours and greater flexibility, and for an easier return to working life, and notes the important role of the two sides of industry in this area and in offering both men and women an opportunity to reconcile their work responsibilities with family obligations;
6. Whereas measures to reconcile work and family life should encourage the introduction of new flexible ways of organizing work and time which are better suited to the changing needs of society and which should take the needs of both undertakings and workers into account;
7. Whereas family policy should be looked at in the context of demographic changes, the effects of the ageing population, closing the generation gap and promoting women's participation in the labour force;
8. Whereas men should be encouraged to assume an equal share of family responsibilities, for example they should be encouraged to take parental leave by means such as awareness programmes;
9. Whereas the present agreement is a framework agreement setting out minimum requirements and provisions for parental leave, distinct from maternity leave, and for time off from work on grounds of *force majeure*, and refers back to Member States and social partners for the establishment of the conditions of access and detailed rules of application in order to take account of the situation in each Member State;

10. Whereas Member States should provide for the maintenance of entitlements to benefits in kind under sickness insurance during the minimum period of parental leave;
11. Whereas Member States should also, where appropriate under national conditions and taking into account the budgetary situation, consider the maintenance of entitlements to relevant social security benefits as they stand during the minimum period of parental leave;
12. Whereas this agreement takes into consideration the need to improve social policy requirements, to enhance the competitiveness of the Community economy and to avoid imposing administrative, financial and legal constraints in a way which would impede the creation and development of small and medium-sized undertakings;
13. Whereas management and labour are best placed to find solutions that correspond to the needs of both employers and workers and must therefore have conferred on them a special role in the implementation and application of the present agreement,

THE SIGNATORY PARTIES HAVE AGREED THE FOLLOWING:

## II. CONTENT

### *Clause 1: Purpose and scope*

1. This agreement lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents.
2. This agreement applies to all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practices in force in each Member State.

### *Clause 2: Parental leave*

1. This agreement grants, subject to clause 2.2, men and women workers an individual right to parental leave on the grounds of the birth or adoption of a child to enable them to take care of that child, for at least three months, until a given age up to 8 years to be defined by Member States and/or management and labour.
2. To promote equal opportunities and equal treatment between men and women, the parties to this agreement consider that the right to parental leave provided for under clause 2.1 should, in principle, be granted on a non-transferable basis.
3. The conditions of access and detailed rules for applying parental leave shall be defined by law and/or collective agreement in the Member States, as long as the minimum requirements of this agreement are respected. Member States and/or management and labour may, in particular:
  - (a) decide whether parental leave is granted on a full-time or part-time basis, in a piecemeal way or in the form of a time-credit system;
  - (b) make entitlement to parental leave subject to a period of work qualification and/or a length of service qualification which shall not exceed one year;
  - (c) adjust conditions of access and detailed rules for applying parental leave to the special circumstances of adoption;
  - (d) establish notice periods to be given by the worker to the employer when exercising the right to parental leave, specifying the beginning and the end of the period of leave;
  - (e) define the circumstances in which an employer, following consultation in accordance with national law, collective agreements and practices, is allowed to postpone the granting of parental leave for justifiable reasons related to the operation of the undertaking (e.g. where work is of a seasonal nature, where a replacement cannot be found within the notice period, where a significant proportion of the workforce applies for parental leave at the same time, where a specific function is of strategic importance). Any problem arising from the application of this provision should be dealt with in accordance with national law, collective agreements and practices;
  - (f) in addition to (e), authorize special arrangements to meet the operational and organizational requirements of small undertakings.

4. In order to ensure that workers can exercise their right to parental leave, Member States and/or management and labour shall take the necessary measures to protect workers against dismissal on the grounds of an application for, or the taking of, parental leave in accordance with national law, collective agreements or practices.
5. At the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract or employment relationship.
6. Rights acquired or in the process of being acquired by the worker on the date on which parental leave starts shall be maintained as they stand until the end of parental leave. At the end of parental leave, these rights, including any changes arising from national law, collective agreements or practice, shall apply.
7. Member States and/or management and labour shall define the status of the employment contract or employment relationship for the period of parental leave.
8. All matters relating to social security in relation to this agreement are for consideration and determination by Member States according to national law, taking into account the importance of the continuity of the entitlements to social security cover under the different schemes, in particular health care.

*Clause 3: Time off from work on grounds of force majeure*

1. Member States and/or management and labour shall take the necessary measures to entitle workers to time off from work, in accordance with national legislation, collective agreements and/or practice, on grounds of *force majeure* for urgent family reasons in cases of sickness or accident making the immediate presence of the worker indispensable.
2. Member States and/or management and labour may specify the conditions of access and detailed rules for applying clause 3.1 and limit this entitlement to a certain amount of time per year and/or per case.

*Clause 4: Final provisions*

1. Member States may apply or introduce more favourable provisions than those set out in this agreement.
2. Implementation of the provisions of this agreement shall not constitute valid grounds for reducing the general level of protection afforded to workers in the field covered by this agreement. This shall not prejudice the right of Member States and/or management and labour to develop different legislative, regulatory or contractual provisions, in the light of changing circumstances (including the introduction of non-transferability), as long as the minimum requirements provided for in the present agreement are complied with.
3. The present agreement shall not prejudice the right of management and labour to conclude, at the appropriate level including European level, agreements adapting and/or complementing the provisions of this agreement in order to take into account particular circumstances.
4. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with the Council decision within a period of two years from its adoption or shall ensure that management and labour<sup>(1)</sup> introduce the necessary measures by way of agreement by the end of this period. Member States may, if necessary to take account of particular difficulties or implementation by collective agreement, have up to a maximum of one additional year to comply with this decision.
5. The prevention and settlement of disputes and grievances arising from the application of this agreement shall be dealt with in accordance with national law, collective agreements and practices.
6. Without prejudice to the respective role of the Commission, national courts and the Court of Justice, any matter relating to the interpretation of this agreement at European level should, in the first instance, be referred by the Commission to the signatory parties who will give an opinion.
7. The signatory parties shall review the application of this agreement five years after the date of the Council decision if requested by one of the parties to this agreement.

<sup>(1)</sup> Within the meaning of Article 2 (4) of the Agreement on social policy.



Done at Brussels, 14 December 1995.

Fritz VERZETNITSCH,  
*President of the ETUC*

Antonio Castellano AUYANET,  
*President of the CEEP*

François PERIGOT,  
*President of the Unice*

Emilio GABAGLIO,  
*Secretary-General*

Roger GOURVÈS,  
*Secretary-General*

Zygmunt TYSZKIEWICZ,  
*Secretary-General*

ETUC  
Bld Emile Jacqmain 155  
B-1210 Brussels

CEEP  
Rue de la Charité 15  
B-1040 Brussels

UNICE  
Rue Joseph II 40  
B-1040 Brussels

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# COUNCIL DIRECTIVE 92/85/EEC

of 19 October 1992

**on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breast-feeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission, drawn up after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at work<sup>(1)</sup>,

In cooperation with the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements for encouraging improvements, especially in the working environment, to protect the safety and health of workers;

Whereas this Directive does not justify any reduction in levels of protection already achieved in individual Member States, the Member States being committed, under the Treaty, to encouraging improvements in conditions in this area and to harmonising conditions while maintaining the improvements made;

Whereas, under the terms of Article 118a of the Treaty, the said directives are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas, pursuant to Decision 74/325/EEC<sup>(4)</sup>, as last amended by the 1985 Act of Accession, the Advisory Committee on Safety, Hygiene and Health protection at Work is consulted by the Commission on the drafting of proposals in this field;

Whereas the Community Charter of the fundamental social rights of workers, adopted at the Strasbourg European Council on 9 December 1989 by the Heads of

State or Government of 11 Member States, lays down, in paragraph 19 in particular, that:

'Every worker must enjoy satisfactory health and safety conditions in his working environment. Appropriate measures must be taken in order to achieve further harmonisation of conditions in this area while maintaining the improvements made';

Whereas the Commission, in its action programme for the implementation of the Community Charter of the fundamental social rights of workers, has included among its aims the adoption by the Council of a Directive on the protection of pregnant women at work;

Whereas Article 15 of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work<sup>(5)</sup> provides that particularly sensitive risk groups must be protected against the dangers which specifically affect them;

Whereas pregnant workers, workers who have recently given birth or who are breastfeeding must be considered a specific risk group in many respects, and measures must be taken with regard to their safety and health;

Whereas the protection of the safety and health of pregnant workers, workers who have recently given birth or workers who are breastfeeding should not treat women on the labour market unfavourably nor work to the detriment of directives concerning equal treatment for men and women;

Whereas some types of activities may pose a specific risk, for pregnant workers, workers who have recently given birth or workers who are breastfeeding, of exposure to dangerous agents, processes or working conditions; whereas such risks must therefore be assessed and the result of such assessment communicated to female workers and/or their representatives;

Whereas, further, should the result of this assessment reveal the existence of a risk to the safety or health of the female worker, provision must be made for such workers to be protected;

Whereas pregnant workers and workers who are breastfeeding must not engage in activities which have

(1) OJ C 281, 9.11.1990, p. 3; and OJ C 25, 1.2.1991, p. 9.

(2) OJ C 19, 28.1.1991, p. 177; and OJ C 150, 15.6.1992, p. 99.

(3) OJ C 41, 18.2.1991, p. 29.

(4) OJ L 185, 9.7.1974, p. 15.

(5) OJ L 183, 29.6.1989, p. 1.

been assessed as revealing a risk of exposure, jeopardising safety and health, to certain particularly dangerous agents or working conditions;

Whereas provision should be made for pregnant workers, workers who have recently given birth or workers who are breastfeeding not to be required to work at night where such provision is necessary from the point of view of their safety and health;

Whereas the vulnerability of pregnant workers, workers who have recently given birth or who are breastfeeding makes it necessary for them to be granted the right to maternity leave of at least 14 continuous weeks, allocated before and/or after confinement, and renders necessary the compulsory nature of maternity leave of at least two weeks, allocated before and/or after confinement;

Whereas the risk of dismissal for reasons associated with their condition may have harmful effects on the physical and mental state of pregnant workers, workers who have recently given birth or who are breastfeeding; whereas provision should be made for such dismissal to be prohibited;

Whereas measures for the organisation of work concerning the protection of the health of pregnant workers, workers who have recently given birth or workers who are breastfeeding would serve no purpose unless accompanied by the maintenance of rights linked to the employment contract, including maintenance of payment and/or entitlement to an adequate allowance;

Whereas, moreover, provision concerning maternity leave would also serve no purpose unless accompanied by the maintenance of rights linked to the employment contract and or entitlement to an adequate allowance;

Whereas the concept of an adequate allowance in the case of maternity leave must be regarded as a technical point of reference with a view to fixing the minimum level of protection and should in no circumstances be interpreted as suggesting an analogy between pregnancy and illness,

HAS ADOPTED THIS DIRECTIVE

## SECTION I

### PURPOSE AND DEFINITIONS

#### *Article 1*

##### **Purpose**

1. The purpose of this Directive, which is the tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC, is to implement measures

to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or who are breastfeeding.

2. The provisions of Directive 89/391/EEC, except for Article 2 (2) thereof, shall apply in full to the whole area covered by paragraph 1, without prejudice to any more stringent and/or specific provisions contained in this Directive.

3. This Directive may not have the effect of reducing the level of protection afforded to pregnant workers, workers who have recently given birth or who are breastfeeding as compared with the situation which exists in each Member State on the date on which this Directive is adopted.

## *Article 2*

### **Definitions**

For the purposes of this Directive:

- (a) *pregnant worker* shall mean a pregnant worker who informs her employer of her condition, in accordance with national legislation and/or national practice;
- (b) *worker who has recently given birth* shall mean a worker who has recently given birth within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice;
- (c) *worker who is breastfeeding* shall mean a worker who is breastfeeding within the meaning of national legislation and/or national practice and who informs her employer of her condition, in accordance with that legislation and/or practice.

## SECTION II

### **GENERAL PROVISIONS**

#### *Article 3*

##### **Guidelines**

1. In consultation with the Member States and assisted by the Advisory Committee on Safety, Hygiene and Health Protection at Work, the Commission shall draw up guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered hazardous for the safety or health of workers within the meaning of Article 2.

The guidelines referred to in the first subparagraph shall also cover movements and postures, mental and

physical fatigue and other types of physical and mental stress connected with the work done by workers within the meaning of Article 2.

2. The purpose of the guidelines referred to in paragraph 1 is to serve as a basis for the assessment referred to in Article 4 (1).

To this end, Member States shall bring these guidelines to the attention of all employers and all female workers and/or their representatives in the respective Member State.

#### Article 4

##### Assessment and information

1. For all activities liable to involve a specific risk of exposure to the agents, processes or working conditions of which a non-exhaustive list is given in Annex I, the employer shall assess the nature, degree and duration of exposure, in the undertaking and/or establishment concerned, of workers within the meaning of Article 2, either directly or by way of the protective and preventive services referred to in Article 7 of Directive 89/391/EEC, in order to:

- assess any risks to the safety or health and any possible effect on the pregnancies or breastfeeding of workers within the meaning of Article 2,
- decide what measures should be taken.

2. Without prejudice to Article 10 of Directive 89/391/EEC, workers within the meaning of Article 2 and workers likely to be in one of the situations referred to in Article 2 in the undertaking and/or establishment concerned and/or their representatives shall be informed of the results of the assessment referred to in paragraph 1 and of all measures to be taken concerning health and safety at work.

#### Article 5

##### Action further to the results of the assessment

1. Without prejudice to Article 6 of Directive 89/391/EEC, if the results of the assessment referred to in Article 4 (1) reveal a risk to the safety or health or an effect on the pregnancy or breastfeeding of a worker within the meaning of Article 2, the employer shall take the necessary measures to ensure that, by temporarily adjusting the working conditions and/or the working hours of the worker concerned, the exposure of that worker to such risks is avoided.

2. If the adjustment of her working conditions and/or working hours is not technically and/or objectively feasible, or cannot reasonably be required on duly substantiated grounds, the employer shall take the

necessary measures to move the worker concerned to another job.

3. If moving her to another job is not technically and/or objectively feasible or cannot reasonably be required on duly substantiated grounds, the worker concerned shall be granted leave in accordance with national legislation and/or national practice for the whole of the period necessary to protect her safety or health.

4. The provisions of this Article shall apply *mutatis mutandis* to the case where a worker pursuing an activity which is forbidden pursuant to Article 6 becomes pregnant or starts breastfeeding and informs her employer thereof.

#### Article 6

##### Cases in which exposure is prohibited

In addition to the general provisions concerning the protection of workers, in particular those relating to the limit values for occupational exposure:

1. pregnant workers within the meaning of Article 2 (a) may under no circumstances be obliged to perform duties for which the assessment has revealed a risk of exposure, which would jeopardise safety or health, to the agents and working conditions listed in Annex II, Section A;
2. workers who are breastfeeding, within the meaning of Article 2 (c), may under no circumstances be obliged to perform duties for which the assessment has revealed a risk of exposure, which would jeopardise safety or health, to the agents and working conditions listed in Annex II, Section B.

#### Article 7

##### Night work

1. Member States shall take the necessary measures to ensure that workers referred to in Article 2 are not obliged to perform night work during their pregnancy and for a period following childbirth which shall be determined by the national authority competent for safety and health, subject to submission, in accordance with the procedures laid down by the Member States, of a medical certificate stating that this is necessary for the safety or health of the worker concerned.

2. The measures referred to in paragraph 1 must entail the possibility, in accordance with national legislation and/or national practice, of:

- (a) transfer to daytime work; or
- (b) leave from work or extension of maternity leave where such a transfer is not technically and/or ob-

jectively feasible or cannot reasonably be required on duly substantiated grounds.

#### Article 8

##### Maternity leave

1. Member States shall take the necessary measures to ensure that workers within the meaning of Article 2 are entitled to a continuous period of maternity leave of a least 14 weeks allocated before and/or after confinement in accordance with national legislation and/or practice.
2. The maternity leave stipulated in paragraph 1 must include compulsory maternity leave of at least two weeks allocated before and/or after confinement in accordance with national legislation and/or practice.

#### Article 9

##### Time off for ante-natal examinations

Member States shall take the necessary measures to ensure that pregnant workers within the meaning of Article 2 (a) are entitled to, in accordance with national legislation and/or practice, time off, without loss of pay, in order to attend ante-natal examinations, if such examinations have to take place during working hours.

#### Article 10

##### Prohibition of dismissal

In order to guarantee workers, within the meaning of Article 2, the exercise of their health and safety protection rights as recognised under this Article, it shall be provided that:

1. Member States shall take the necessary measures to prohibit the dismissal of workers, within the meaning of Article 2, during the period from the beginning of their pregnancy to the end of the maternity leave referred to in Article 8 (1), save in exceptional cases not connected with their condition which are permitted under national legislation and/or practice and, where applicable, provided that the competent authority has given its consent;
2. if a worker, within the meaning of Article 2, is dismissed during the period referred to in point 1, the employer must cite duly substantiated grounds for her dismissal in writing;
3. Member States shall take the necessary measures to protect workers, within the meaning of Article 2, from consequences of dismissal which is unlawful by virtue of point 1.

#### Article 11

##### Employment rights

In order to guarantee workers within the meaning of Article 2 the exercise of their health and safety protection rights as recognised in this Article, it shall be provided that:

1. in the cases referred to in Articles 5, 6 and 7, the employment rights relating to the employment contract, including the maintenance of a payment to, and/or entitlement to an adequate allowance for, workers within the meaning of Article 2, must be ensured in accordance with national legislation and/or national practice;
2. in the case referred to in Article 8, the following must be ensured:
  - (a) the rights connected with the employment contract of workers within the meaning of Article 2, other than those referred to in point (b) below;
  - (b) maintenance of a payment to, and/or entitlement to an adequate allowance for, workers within the meaning of Article 2;
3. the allowance referred to in point 2 (b) shall be deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation;
4. Member States may make entitlement to pay or the allowance referred to in points 1 and 2 (b) conditional upon the worker concerned fulfilling the conditions of eligibility for such benefits laid down under national legislation.

These conditions may under no circumstances provide for periods of previous employment in excess of 12 months immediately prior to the presumed date of confinement.

#### Article 12

##### Defence of rights

Member States shall introduce into their national legal systems such measures as are necessary to enable all workers who consider themselves wronged by failure to comply with the obligations arising from this Directive to pursue their claims by judicial process (and/or, in accordance with national laws and/or practices) by recourse to other competent authorities.

*Article 13*

**Amendments to the Annexes**

1. Strictly technical adjustments to Annex I as a result of technical progress, changes in international regulations or specifications and new findings in the area covered by this Directive shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.
2. Annex II may be amended only in accordance with the procedure laid down in Article 118a of the Treaty.

*Article 14*

**Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than two years after the adoption thereof or ensure, at the latest two years after adoption of this Directive, that the two sides of industry introduce the requisite provisions by means of collective agreements, with Member States being required to make all the necessary provisions to enable them at all times to guarantee the results laid down by this Directive. They shall forthwith inform the Commission thereof.
2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.
3. Member States shall communicate to the Commission the texts of the essential provisions of national law which they have already adopted or adopt in the field governed by this Directive.

4. Member States shall report to the Commission every five years on the practical implementation of the provisions of this Directive, indicating the points of view of the two sides of industry.

However, Member States shall report for the first time to the Commission on the practical implementation of the provisions of this Directive, indicating the points of view of the two sides of industry, four years after its adoption.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work.

5. The Commission shall periodically submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive, taking into account paragraphs 1, 2 and 3.

6. The Council will re-examine this Directive, on the basis of an assessment carried out on the basis of the reports referred to in the second subparagraph of paragraph 4 and, should the need arise, of a proposal, to be submitted by the Commission at the latest five years after adoption of the Directive.

*Article 15*

This Directive is addressed to the Member States.

Done at Luxembourg, 19 October 1992.

*For the Council*  
*The President*  
D. CURRY

ANNEX I

NON-EXHAUSTIVE LIST OF AGENTS, PROCESSES AND WORKING  
CONDITIONS

referred to in Article 4 (1)

A. Agents

1. *Physical agents* where these are regarded as agents causing foetal lesions and/or likely to disrupt placental attachment, and in particular:

- (a) shocks, vibration or movement;
- (b) handling of loads entailing risks, particularly of a dorsolumbar nature;
- (c) noise;
- (d) ionising radiation (\*);
- (e) non-ionising radiation;
- (f) extremes of cold or heat;
- (g) movements and postures, travelling — either inside or outside the establishment — mental and physical fatigue and other physical burdens connected with the activity of the worker within the meaning of Article 2 of the Directive.

2. *Biological agents*

Biological agents of risk groups 2, 3 and 4 within the meaning of Article 2 (d) numbers 2, 3 and 4 of Directive 90/679/EEC (1), in so far as it is known that these agents or the therapeutic measures necessitated by such agents endanger the health of pregnant women and the unborn child and in so far as they do not yet appear in Annex II.

3. *Chemical agents*

The following chemical agents in so far as it is known that they endanger the health of pregnant women and the unborn child and in so far as they do not yet appear in Annex II:

- (a) substances labelled R 40, R 45, R 46, and R 47 under Directive 67/548/EEC (2) in so far as they do not yet appear in Annex II;
- (b) chemical agents in Annex I to Directive 90/394/EEC (3);
- (c) mercury and mercury derivatives;
- (d) antimitotic drugs;
- (e) carbon monoxide;
- (f) chemical agents of known and dangerous percutaneous absorption.

B. Processes

Industrial processes listed in Annex I to Directive 90/394/EEC.

C. Working conditions

Underground mining work.

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(\*) See Directive 80/836/Euratom (OJ L 246, 17.9.1980, p. 1).

(1) OJ L 374, 31.12.1990, p. 1.

(2) OJ L 196, 16.8.1967, p. 1. Directive as last amended by Directive 90/517/EEC (OJ L 287, 19.10.1990, p. 37).

(3) OJ L 196, 26.7.1990, p. 1.

ANNEX II

NON-EXHAUSTIVE LIST OF AGENTS AND WORKING CONDITIONS

referred to in Article 6

A. Pregnant workers within the meaning of Article 2 (a)

1. Agents

(a) Physical agents

— Work in hyperbaric atmosphere, e.g. pressurised enclosures and underwater diving.

(b) Biological agents

The following biological agents:

— toxoplasma,

— rubella virus,

unless the pregnant workers are proved to be adequately protected against such agents by immunisation.

(c) Chemical agents

Lead and lead derivatives in so far as these agents are capable of being absorbed by the human organism.

2. Working conditions

Underground mining work.

B. Workers who are breastfeeding within the meaning of Article 2 (c)

1. Agents

(a) Chemical agents

Lead and lead derivatives in so far as these agents are capable of being absorbed by the human organism.

2. Working conditions

Underground mining work.



**Statement of the Council and the Commission concerning Article 11 (3) of Directive 92/85/EEC, entered in the minutes of the 1608th meeting of the Council (Luxembourg, 19 October 1992)**

THE COUNCIL AND THE COMMISSION stated that:

In determining the level of the allowances referred to in Article 11 (2) (b) and (3), reference shall be made, for purely technical reasons, to the allowance which a worker would receive in the event of a break in her activities on grounds connected with her state of health. Such a reference is not intended in any way to imply that pregnancy and childbirth be equated with sickness. The national social security legislation of all Member States provides for an allowance to be paid during an absence from work due to sickness. The link with such allowance in the chosen formulation is simply intended to serve as a concrete, fixed reference amount in all Member States for the determination of the minimum amount of maternity allowance payable. In so far as allowances are paid in individual Member States which exceed those provided for in the Directive, such allowances are, of course, retained. This is clear from Article 1 (3) of the Directive.

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# COUNCIL

## COUNCIL DIRECTIVE

of 11 December 1986

on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood

(86/613/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas, in its resolution of 12 July 1982 on the promotion of equal opportunities for women <sup>(4)</sup>, the Council approved the general objectives of the Commission communication concerning a new Community action programme on the promotion of equal opportunities for women (1982 to 1985) and expressed the will to implement appropriate measures to achieve them;

Whereas action 5 of the programme referred to above concerns the application of the principle of equal treatment to self-employed women and to women in agriculture;

Whereas the implementation of the principle of equal pay for men and women workers, as laid down in Article 119 of the Treaty, forms an integral part of the establishment and functioning of the common market;

Whereas on 10 February 1975 the Council adopted Directive 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women <sup>(5)</sup>;

Whereas, as regards other aspects of equality of treatment between men and women, on 9 February 1976 the Council adopted Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational

training and promotion, and working conditions <sup>(6)</sup> and on 19 December 1978 Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security <sup>(7)</sup>;

Whereas, as regards persons engaged in a self-employed capacity, in an activity in which their spouses are also engaged, the implementation of the principle of equal treatment should be pursued through the adoption of detailed provisions designed to cover the specific situation of these persons;

Whereas differences persist between the Member States in this field, whereas, therefore it is necessary to approximate national provisions with regard to the application of the principle of equal treatment;

Whereas in certain respects the Treaty does not confer the powers necessary for the specific actions required;

Whereas the implementation of the principle of equal treatment is without prejudice to measures concerning the protection of women during pregnancy and motherhood,

HAS ADOPTED THIS DIRECTIVE:

### SECTION I

#### Aims and scope

##### Article 1

The purpose of this Directive is to ensure, in accordance with the following provisions, application in the Member States of the principle of equal treatment as between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such an activity, as regards those aspects not covered by Directives 76/207/EEC and 79/7/EEC.

<sup>(1)</sup> OJ No C 113, 27. 4. 1984, p. 4.

<sup>(2)</sup> OJ No C 172, 2. 7. 1984, p. 90.

<sup>(3)</sup> OJ No C 343, 24. 12. 1984, p. 1.

<sup>(4)</sup> OJ No C 186, 21. 7. 1982, p. 3.

<sup>(5)</sup> OJ No L 45, 19. 2. 1975, p. 19.

<sup>(6)</sup> OJ No L 39, 14. 2. 1975, p. 40.

<sup>(7)</sup> OJ No L 6, 10. 1. 1979, p. 24.

*Article 2*

This Directive covers :

- (a) self-employed workers, i.e. all persons pursuing a gainful activity for their own account, under the conditions laid down by national law, including farmers and members of the liberal professions ;
- (b) their spouses, not being employees or partners, where they habitually, under the conditions laid down by national law, participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks.

*Article 3*

For the purposes of this Directive the principle of equal treatment implies the absence of all discrimination on grounds of sex, either directly or indirectly, by reference in particular to marital or family status.

## SECTION II

**Equal treatment between self-employed male and female workers — position of the spouses without professional status of self-employed workers — protection of self-employed workers or wives of self-employed workers during pregnancy and motherhood**

*Article 4*

As regards self-employed persons, Member States shall take the measures necessary to ensure the elimination of all provisions which are contrary to the principle of equal treatment as defined in Directive 76/207/EEC, especially in respect of the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity including financial facilities.

*Article 5*

Without prejudice to the specific conditions for access to certain activities which apply equally to both sexes, Member States shall take the measures necessary to ensure that the conditions for the formation of a company between spouses are not more restrictive than the conditions for the formation of a company between unmarried persons.

*Article 6*

Where a contributory social security system for self-employed workers exists in a Member State, that Member State shall take the necessary measures to enable the spouses referred to in Article 2 (b) who are not protected under the self-employed worker's social security scheme to join a contributory social security scheme voluntarily.

*Article 7*

Member States shall undertake to examine under what conditions recognition of the work of the spouses referred to in Article 2 (b) may be encouraged and, in the light of such examination, consider any appropriate steps for encouraging such recognition.

*Article 8*

Member States shall undertake to examine whether, and under what conditions, female self-employed workers and the wives of self-employed workers may, during interruptions in their occupational activity owing to pregnancy or motherhood,

- have access to services supplying temporary replacements or existing national social services, or
- be entitled to cash benefits under a social security scheme or under any other public social protection system.

## SECTION III

**General and final provisions***Article 9*

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply the principle of equal treatment in self-employed activities to pursue their claims by judicial process, possibly after recourse to other competent authorities.

*Article 10*

Member States shall ensure that the measures adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of bodies representing self-employed workers and vocational training centres.

*Article 11*

The Council shall review this Directive, on a proposal from the Commission, before 1 July 1993.

*Article 12*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 30 June 1989.

However, if a Member State which, in order to comply with Article 5 of this Directive, has to amend its legislation on matrimonial rights and obligations, the date on which such Member State must comply with Article 5 shall be 30 June 1991.

2. Member States shall immediately inform the Commission of the measures taken to comply with this Directive.

*Article 13*

Member States shall forward to the Commission, not later than 30 June 1991, all the information necessary to enable it to draw up a report on the application of this Directive for submission to the Council.

*Article 14*

This Directive is addressed to the Member States.

Done at Brussels, 11 December 1986.

*For the Council*

*The President*

A. CLARKE

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## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DIRECTIVE

of 24 July 1986

**on the implementation of the principle of equal treatment for men and women  
in occupational social security schemes**

(86/378/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the Treaty provides that each Member State shall ensure the application of the principle that men and women should receive equal pay for equal work; whereas 'pay' should be taken to mean the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives, directly or indirectly, from his employer in respect of his employment;

Whereas, although the principle of equal pay does indeed apply directly in cases where discrimination can be determined solely on the basis of the criteria of equal treatment and equal pay, there are also situations in which implementation of this principle implies the adoption of additional measures which more clearly define its scope;

Whereas Article 1 (2) of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle

of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions <sup>(4)</sup> provides that, with a view to ensuring the progressive implementation of the principle of equal treatment in matters of social security, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application; whereas the Council adopted to this end Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security <sup>(5)</sup>;

Whereas Article 3 (3) of Directive 79/7/EEC provides that, with a view to ensuring implementation of the principle of equal treatment in occupational schemes, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application;

Whereas the principle of equal treatment should be implemented in occupational social security schemes which provide protection against the risks specified in Article 3 (1) of Directive 79/7/EEC as well as those which provide employees with any other consideration in cash or in kind within the meaning of the Treaty;

Whereas implementation of the principle of equal treatment does not prejudice the provisions relating to the protection of women by reason of maternity,

<sup>(1)</sup> OJ No C 134, 21. 5. 1983, p. 7.

<sup>(2)</sup> OJ No C 117, 30. 4. 1984, p. 169.

<sup>(3)</sup> OJ No C 35, 9. 2. 1984, p. 7.

<sup>(4)</sup> OJ No L 39, 14. 2. 1976, p. 40.

<sup>(5)</sup> OJ No L 6, 10. 1. 1979, p. 24.

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The object of this Directive is to implement, in occupational social security schemes, the principle of equal treatment for men and women, hereinafter referred to as 'the principle of equal treatment'.

*Article 2*

1. 'Occupational social security schemes' means schemes not governed by Directive 79/7/EEC whose purpose is to provide workers, whether employees or self-employed, in an undertaking or group of undertakings, area of economic activity or occupational sector or group of such sectors with benefits intended to supplement the benefits provided by statutory social security schemes or to replace them, whether membership of such schemes is compulsory or optional.

2. This Directive does not apply to:

- (a) individual contracts,
- (b) schemes having only one member,
- (c) in the case of salaried workers, insurance schemes offered to participants individually to guarantee them:
  - either additional benefits, or
  - a choice of date on which the normal benefits will start, or a choice between several benefits.

*Article 3*

This Directive shall apply to members of the working population including self-employed persons, persons whose activity is interrupted by illness, maternity, accident or involuntary unemployment and persons seeking employment, and to retired and disabled workers.

*Article 4*

This Directive shall apply to:

- (a) occupational schemes which provide protection against the following risks:
  - sickness,
  - invalidity,
  - old age, including early retirement,
  - industrial accidents and occupational diseases,
  - unemployment;
- (b) occupational schemes which provide for other social benefits, in cash or in kind, and in particular survivors' benefits and family allowances, if such benefits are accorded to employed persons and thus constitute a

consideration paid by the employer to the worker by reason of the latter's employment.

*Article 5*

1. Under the conditions laid down in the following provisions, the principle of equal treatment implies that there shall be no discrimination on the basis of sex, either directly or indirectly, by reference in particular to marital or family status, especially as regards:

- the scope of the schemes and the conditions of access to them;
- the obligation to contribute and the calculation of contributions;
- the calculation of benefits, including supplementary benefits due in respect of a spouse or dependants, and the conditions governing the duration and retention of entitlement to benefits.

2. The principle of equal treatment shall not prejudice the provisions relating to the protection of women by reason of maternity.

*Article 6*

1. Provisions contrary to the principle of equal treatment shall include those based on sex, either directly or indirectly, in particular by reference to marital or family for:

- (a) determining the persons who may participate in an occupational scheme;
- (b) fixing the compulsory or optional nature of participation in an occupational scheme;
- (c) laying down different rules as regards the age of entry into the scheme or the minimum period of employment or membership of the scheme required to obtain the benefits thereof;
- (d) laying down different rules, except as provided for in subparagraphs (h) and (i), for the reimbursement of contributions where a worker leaves a scheme without having fulfilled the conditions guaranteeing him a deferred right to long-term benefits;
- (e) setting different conditions for the granting of benefits of restricting such benefits to workers of one or other of the sexes;
- (f) fixing different retirement ages;
- (g) suspending the retention or acquisition of rights during periods of maternity leave or leave for family reasons which are granted by law or agreement and are paid by the employer;
- (h) setting different levels of benefit, except insofar as may be necessary to take account of actuarial calculation factors which differ according to sex in the case of benefits designated as contribution-defined;

- (i) setting different levels of worker contribution ;  
 setting different levels of employer contribution in the case of benefits designated as contribution-defined, except with a view to making the amount of those benefits more nearly equal ;
- (j) laying down different standards or standards applicable only to workers of a specified sex, except as provided for in subparagraphs (h) and (i), as regards the guarantee or retention of entitlement to deferred benefits when a worker leaves a scheme.

2. Where the granting of benefits within the scope of this Directive is left to the discretion of the scheme's management bodies, the latter must take account of the principle of equal treatment.

#### Article 7

Member States shall take all necessary steps to ensure that :

- (a) provisions contrary to the principle of equal treatment in legally compulsory collective agreements, staff rules of undertakings or any other arrangements relating to occupational schemes are null and void, or may be declared null and void or amended ;
- (b) schemes containing such provisions may not be approved or extended by administrative measures.

#### Article 8

1. Member States shall take all necessary steps to ensure that the provisions of occupational schemes contrary to the principle of equal treatment are revised by 1 January 1993.

2. This Directive shall not preclude rights and obligations relating to a period of membership of an occupational scheme prior to revision of that scheme from remaining subject to the provisions of the scheme in force during that period.

#### Article 9

Member States may defer compulsory application of the principle of equal treatment with regard to :

- (a) determination of pensionable age for the purposes of granting old-age or retirement pensions, and the possible implications for other benefits :
- either until the date on which such equality is achieved in statutory schemes,

— or, at the latest, until such equality is required by a directive.

- (b) survivors' pensions until a directive requires the principle of equal treatment in statutory social security schemes in that regard ;
- (c) the application of the first subparagraph of Article 6 (1) (i) to take account of the different actuarial calculation factors, at the latest until the expiry of a thirteen-year period as from the notification of this Directive.

#### Article 10

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves injured by failure to apply the principle of equal treatment to pursue their claims before the courts, possibly after bringing the matters before other competent authorities.

#### Article 11

Member States shall take all the necessary steps to protect worker against dismissal where this constitutes a response on the part of the employer to a complaint made at undertaking level or to the institution of legal proceedings aimed at enforcing compliance with the principle of equal treatment.

#### Article 12

1. Member States shall bring into force such laws, regulations and administrative provisions as are necessary in order to comply with this Directive at the latest three years after notification thereof<sup>(1)</sup>. They shall immediately inform the Commission thereof.

2. Member States shall communicate to the Commission at the latest five years after notification of this Directive all information necessary to enable the Commission to draw up a report on the application of this Directive for submission to the Council.

#### Article 13

This Directive is addressed to the Member States.

Done at Brussels, 24 July 1986.

For the Council

The President

A. CLARK

<sup>(1)</sup> This Directive was notified to the Member States on 30 July 1986

**COUNCIL DIRECTIVE**  
**of 19 December 1978**  
**on the progressive implementation of the principle of equal treatment for men**  
**and women in matters of social security**

(79/7/EEC)

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 1 (2) of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions <sup>(4)</sup> provides that, with a view to ensuring the progressive implementation of the principle of equal treatment in matters of social security, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application; whereas the Treaty does not confer the specific powers required for this purpose;

Whereas the principle of equal treatment in matters of social security should be implemented in the first place in the statutory schemes which provide protection against the risks of sickness, invalidity, old age, accidents at work, occupational diseases and unemployment, and in social assistance in so far as it is intended to supplement or replace the abovementioned schemes;

Whereas the implementation of the principle of equal treatment in matters of social security does not prejudice the provisions relating to the protection of women on the ground of maternity; whereas, in this respect, Member States may adopt specific provisions for women to remove existing instances of unequal treatment,

<sup>(1)</sup> OJ No C 34, 11. 2. 1977, p. 3.

<sup>(2)</sup> OJ No C 299, 12. 12. 1977, p. 13.

<sup>(3)</sup> OJ No C 180, 28. 7. 1977, p. 36.

<sup>(4)</sup> OJ No L 39, 14. 2. 1976, p. 40.

*Article 1*

The purpose of this Directive is the progressive implementation, in the field of social security and other elements of social protection provided for in Article 3, of the principle of equal treatment for men and women in matters of social security, hereinafter referred to as 'the principle of equal treatment'.

*Article 2*

This Directive shall apply to the working population — including self-employed persons, workers and self-employed persons whose activity is interrupted by illness, accident or involuntary unemployment and persons seeking employment — and to retired or invalided workers and self-employed persons.

*Article 3*

1. This Directive shall apply to:
  - (a) statutory schemes which provide protection against the following risks:
    - sickness,
    - invalidity,
    - old age,
    - accidents at work and occupational diseases,
    - unemployment;
  - (b) social assistance, in so far as it is intended to supplement or replace the schemes referred to in (a).
2. This Directive shall not apply to the provisions concerning survivors' benefits nor to those concerning family benefits, except in the case of family benefits granted by way of increases of benefits due in respect of the risks referred to in paragraph 1 (a).
3. With a view to ensuring implementation of the principle of equal treatment in occupational schemes, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application.



*Article 4*

1. The principle of equal treatment means that there shall be no discrimination whatsoever on ground of sex either directly, or indirectly by reference in particular to marital or family status, in particular as concerns :

- the scope of the schemes and the conditions of access thereto,
- the obligation to contribute and the calculation of contributions,
- the calculation of benefits including increases due in respect of a spouse and for dependants and the conditions governing the duration and retention of entitlement to benefits.

2. The principle of equal treatment shall be without prejudice to the provisions relating to the protection of women on the grounds of maternity.

*Article 5*

Member States shall take the measures necessary to ensure that any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished.

*Article 6*

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply the principle of equal treatment to pursue their claims by judicial process, possibly after recourse to other competent authorities.

*Article 7*

1. This Directive shall be without prejudice to the right of Member States to exclude from its scope :

- (a) the determination of pensionable age for the purposes of granting old-age and retirement pensions and the possible consequences thereof for other benefits ;
- (b) advantages in respect of old-age pension schemes granted to persons who have brought up children ; the acquisition of benefit entitlements following periods of interruption of employment due to the bringing up of children ;
- (c) the granting of old-age or invalidity benefit entitlements by virtue of the derived entitlements of a wife ;

(d) the granting of increases of long-term invalidity, old-age, accidents at work and occupational disease benefits for a dependent wife ;

(e) the consequences of the exercise, before the adoption of this Directive, of a right of option not to acquire rights or incur obligations under a statutory scheme.

2. Member States shall periodically examine matters excluded under paragraph 1 in order to ascertain, in the light of social developments in the matter concerned, whether there is justification for maintaining the exclusions concerned.

*Article 8*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within six years of its notification. They shall immediately inform the Commission thereof.

2. Member States shall communicate to the Commission the text of laws, regulations and administrative provisions which they adopt in the field covered by this Directive, including measures adopted pursuant to Article 7 (2).

They shall inform the Commission of their reasons for maintaining any existing provisions on the matters referred to in Article 7 (1) and of the possibilities for reviewing them at a later date.

*Article 9*

Within seven years of notification of this Directive, Member States shall forward all information necessary to the Commission to enable it to draw up a report on the application of this Directive for submission to the Council and to propose such further measures as may be required for the implementation of the principle of equal treatment.

*Article 10*

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1978.

*For the Council*

*The President*

H.-D. GENSCHER

## COUNCIL DIRECTIVE

of 9 February 1976

on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

(76/207/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(2)</sup>,

Whereas the Council, in its resolution of 21 January 1974 concerning a social action programme<sup>(3)</sup>, included among the priorities action for the purpose of achieving equality between men and women as regards access to employment and vocational training and promotion and as regards working conditions, including pay;

Whereas, with regard to pay, the Council adopted on 10 February 1975 Directive 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women<sup>(4)</sup>;

Whereas Community action to achieve the principle of equal treatment for men and women in respect of access to employment and vocational training and promotion and in respect of other working conditions also appears to be necessary; whereas, equal treatment for male and female workers constitutes one of the objectives of the Community, in so far as the harmonization of living and working conditions while maintaining their improvement are *inter alia* to be furthered; whereas the Treaty does not confer the necessary specific powers for this purpose;

Whereas the definition and progressive implementation of the principle of equal treatment in matters of social security should be ensured by means of subsequent instruments,

<sup>(1)</sup> OJ No C 111, 20. 5. 1975, p. 14.

<sup>(2)</sup> OJ No C 286, 15. 12. 1975, p. 8.

<sup>(3)</sup> OJ No C 13, 12. 2. 1974, p. 1.

<sup>(4)</sup> OJ No L 45, 19. 2. 1975, p. 19.

*Article 1*

1. The purpose of this Directive is to put into effect in the Member States the principle of equal treatment for men and women as regards access to employment, including promotion, and to vocational training and as regards working conditions and, on the conditions referred to in paragraph 2, social security. This principle is hereinafter referred to as 'the principle of equal treatment.'

2. With a view to ensuring the progressive implementation of the principle of equal treatment in matters of social security, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application.

*Article 2*

1. For the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.

2. This Directive shall be without prejudice to the right of Member States to exclude from its field of application those occupational activities and, where appropriate, the training leading thereto, for which, by reason of their nature or the context in which they are carried out, the sex of the worker constitutes a determining factor.

3. This Directive shall be without prejudice to provisions concerning the protection of women, particularly as regards pregnancy and maternity.

4. This Directive shall be without prejudice to measures to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women's opportunities in the areas referred to in Article 1 (1).

*Article 3*

1. Application of the principle of equal treatment means that there shall be no discrimination whatsoever on grounds of sex in the conditions, including selection criteria, for access to all jobs or posts, whatever the sector or branch of activity, and to all levels of the occupational hierarchy.

2. To this end, Member States shall take the measures necessary to ensure that :

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished ;
- (b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended ;
- (c) those laws, regulations and administrative provisions contrary to the principle of equal treatment when the concern for protection which originally inspired them is no longer well founded shall be revised ; and that where similar provisions are included in collective agreements labour and management shall be requested to undertake the desired revision.

*Article 4*

Application of the principle of equal treatment with regard to access to all types and to all levels, of vocational guidance, vocational training, advanced vocational training and retraining, means that Member States shall take all necessary measures to ensure that :

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished ;
- (b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended ;
- (c) without prejudice to the freedom granted in certain Member States to certain private training establishments, vocational guidance, vocational training, advanced vocational training and retraining shall be accessible on the basis of the same criteria and at the same levels without any discrimination on grounds of sex.

*Article 5*

1. Application of the principle of equal treatment with regard to working conditions, including the conditions governing dismissal, means that men and women shall be guaranteed the same conditions without discrimination on grounds of sex.

2. To this end, Member States shall take the measures necessary to ensure that :

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished ;
- (b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended ;
- (c) those laws, regulations and administrative provisions contrary to the principle of equal treatment when the concern for protection which originally inspired them is no longer well founded shall be revised ; and that where similar provisions are included in collective agreements labour and management shall be requested to undertake the desired revision.

*Article 6*

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply to them the principle of equal treatment within the meaning of Articles 3, 4 and 5 to pursue their claims by judicial process after possible recourse to other competent authorities.

*Article 7*

Member States shall take the necessary measures to protect employees against dismissal by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment.

*Article 8*

Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of employees by all appropriate means, for example at their place of employment.

*Article 9*

1. Member States shall put into force the laws, regulations and administrative provisions necessary in order to comply with this Directive within 30 months of its notification and shall immediately inform the Commission thereof.

However, as regards the first part of Article 3 (2) (c) and the first part of Article 5 (2) (c), Member States shall carry out a first examination and if necessary a first revision of the laws, regulations and administrative provisions referred to therein within four years of notification of this Directive.

2. Member States shall periodically assess the occupational activities referred to in Article 2 (2) in order to decide, in the light of social developments, whether there is justification for maintaining the exclusions concerned. They shall notify the Commission of the results of this assessment.

3. Member States shall also communicate to the Commission the texts of laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

*Article 10*

Within two years following expiry of the 30-month period laid down in the first subparagraph of Article

9 (1), Member States shall forward all necessary information to the Commission to enable it to draw up a report on the application of this Directive for submission to the Council.

*Article 11*

This Directive is addressed to the Member States.

Done at Brussels, 9 February 1976.

*For the Council*

*The President*

G. THORN

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DIRECTIVE

of 10 February 1975

on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women

(75/117/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament<sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee<sup>(2)</sup>;

Whereas implementation of the principle that men and women should receive equal pay contained in Article 119 of the Treaty is an integral part of the establishment and functioning of the common market;

Whereas it is primarily the responsibility of the Member States to ensure the application of this principle by means of appropriate laws, regulations and administrative provisions;

Whereas the Council resolution of 21 January 1974<sup>(3)</sup> concerning a social action programme, aimed at making it possible to harmonize living and working conditions while the improvement is being maintained and at achieving a balanced social and economic development of the Community, recognized that priority should be given to action taken on behalf of women as regards access to employment and vocational training and advancement, and as regards working conditions, including pay;

<sup>(1)</sup> OJ No C 55, 13. 5. 1974, p. 43.

<sup>(2)</sup> OJ No C 88, 26. 7. 1974, p. 7.

<sup>(3)</sup> OJ No C 13, 12. 2. 1974, p. 1.

Whereas it is desirable to reinforce the basic laws by standards aimed at facilitating the practical application of the principle of equality in such a way that all employees in the Community can be protected in these matters;

Whereas differences continue to exist in the various Member States despite the efforts made to apply the resolution of the conference of the Member States of 30 December 1961 on equal pay for men and women and whereas, therefore, the national provisions should be approximated as regards application of the principle of equal pay,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

The principle of equal pay for men and women outlined in Article 119 of the Treaty, hereinafter called 'principle of equal pay', means, for the same work or for work to which equal value is attributed, the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration.

In particular, where a job classification system is used for determining pay, it must be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex.

*Article 2*

Member States shall introduce into their national legal systems such measures as are necessary to enable all employees who consider themselves wronged by failure to apply the principle of equal pay to pursue their claims by judicial process after possible recourse to other competent authorities.

*Article 3*

Member States shall abolish all discrimination between men and women arising from laws, regulations or administrative provisions which is contrary to the principle of equal pay.

*Article 4*

Member States shall take the necessary measures to ensure that provisions appearing in collective agreements, wage scales, wage agreements or individual contracts of employment which are contrary to the principle of equal pay shall be, or may be declared, null and void or may be amended.

*Article 5*

Member States shall take the necessary measures to protect employees against dismissal by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal pay.

*Article 6*

Member States shall, in accordance with their national circumstances and legal systems, take the measures necessary to ensure that the principle of equal pay is applied. They shall see that effective means are available to take care that this principle is observed.

*Article 7*

Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of employees by all appropriate means, for example at their place of employment.

*Article 8*

1. Member States shall put into force the laws, regulations and administrative provisions necessary in order to comply with this Directive within one year of its notification and shall immediately inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

*Article 9*

Within two years of the expiry of the one-year period referred to in Article 8, Member States shall forward all necessary information to the Commission to enable it to draw up a report on the application of this Directive for submission to the Council.

*Article 10*

This Directive is addressed to the Member States.

Done at Brussels, 10 February 1975.

*For the Council*

*The President*

G. FITZGERALD

## **II. Decisions on Community Action Programmes Related to Equality between Women and Men**





**DECISION No 1554/2005/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 7 September 2005**

**amending Council Decision 2001/51/EC establishing a programme relating to the Community framework strategy on gender equality and Decision No 848/2004/EC establishing a Community action programme to promote organisations active at European level in the field of equality between men and women**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 13(2) thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(1)</sup>,

Whereas:

- (1) The Council by Decision 2001/51/EC <sup>(2)</sup>, established a programme relating to the Community framework strategy on gender equality to improve the understanding of issues related to gender equality, promote and disseminate the values and practices underlying gender equality and develop the capacity of players to promote gender equality effectively.
- (2) The European Parliament and the Council by Decision No 848/2004/EC <sup>(3)</sup>, established a Community Action Programme to promote organisations active at European level in the field of equality between men and women to support the activities of such organisations of which an ongoing programme of work or a specific measure serves the general European interest in the field of equality between men and women or pursues an objective which is part of the European Union's policy in this area.
- (3) Both programmes expire on 31 December 2005. It is essential to ensure the continuity of Community policy for the promotion of gender equality in view of the objectives enshrined in Article 13 of the Treaty.
- (4) It is necessary to extend the programmes for a one-year transitional period until a new multi-annual framework programme on the financing of actions in the employment and social field for the period 2007 to 2013 including a strand on gender equality is established.

- (5) Decision 2001/51/EC was based on Article 13 of the Treaty. However, following the amendments introduced by the Treaty of Nice, Article 13(2) constitutes the specific legal basis for the adoption of Community incentive measures intended to contribute to the combating of discrimination. It is therefore appropriate to base the amendment of Decision 2001/51/EC on Article 13(2),

HAVE ADOPTED THIS DECISION:

*Article 1*

Decision 2001/51/EC is hereby amended as follows:

1. in Article 1, the date '31 December 2005' shall be replaced by '31 December 2006';
2. Article 11(1) shall be replaced by the following:

'1. The financial reference amount for the implementation of the programme for the period 2001 to 2006 shall be EUR 61,5 million.'

*Article 2*

Decision No 848/2004/EC is hereby amended as follows:

1. in Article 1(3), the date '31 December 2005' shall be replaced by '31 December 2006';
2. Article 6(1) shall be replaced by the following:

'1. The financial framework for the implementation of the programme for the period from 2004 to 2006 shall be EUR 3,3 million.'

*Article 3*

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

<sup>(1)</sup> Opinion of the European Parliament of 26 May 2005 (not yet published in the Official Journal) and Council Decision of 12 July 2005.

<sup>(2)</sup> OJ L 17, 19.1.2001, p. 22.

<sup>(3)</sup> OJ L 157, 30.4.2004, p. 18. Decision as rectified in OJ L 195, 2.6.2004, p. 7.

*Article 4*

This Decision is addressed to the Member States.

Done at Strasbourg, 7 September 2005.

*For the European Parliament*  
*The President*  
J. BORREL FONTELLES

*For the Council*  
*The President*  
C. CLARKE

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**Corrigendum to Decision No 848/2004/EC of the European Parliament and of the Council of 29 April 2004 establishing a Community action programme to promote organisations active at European level in the field of equality between men and women**

(Official Journal of the European Union L 157 of 30 April 2004)

Decision No 848/2004/EC should read as follows:

**DECISION No 848/2004/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 29 April 2004  
establishing a Community action programme to promote organisations active at European level  
in the field of equality between men and women**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular, Article 13(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The principle of equality between men and women is a fundamental principle of Community law, laid down in Article 2 and Article 3(2) of the Treaty and clarified by the case-law of the Court of Justice of the European Communities. Under the Treaty, equality between men and women is one of the Community's specific tasks and objectives and the Community is actively to promote such equality in all fields of Community action.
- (2) Article 13(1) of the Treaty confers on the Council the power to take appropriate action to combat all discrimination based, *inter alia*, on sex. Pursuant to Article 13(2), when the Council adopts Community incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of that objective, it is to act in accordance with the procedure referred to in Article 251 of the Treaty.

(3) Article 21 of the Charter of Fundamental Rights of the European Union prohibits any discrimination on grounds of sex and Article 23 lays down the principle of equality between men and women in all areas.

(4) Experience of action at Community level has shown that promoting gender equality calls in practice for a combination of measures and, in particular, of legislation and practical action designed to reinforce one another.

(5) The Commission's White Paper on European Governance advocates the participation of citizens in shaping and implementing policy, the involvement of civil society and civil society organisations, and more effective and transparent consultation of interested parties.

(6) The Fourth World Conference on Women held in Beijing adopted on 15 September 1995 a Declaration and a Platform for Action calling on governments, the international community and civil society to take strategic action to eliminate both discrimination against women and the barriers to gender equality.

(7) By Decision 2001/51/EC <sup>(3)</sup>, the Council established a Community action programme relating to the Community framework strategy on gender equality. These actions should be supplemented by support measures in the areas concerned.

(8) Budget headings A-3 03 7 (No ABB 040501) and A-3 04 6 (No ABB 040503) of the general budget of the European Union for the year 2003 and preceding years were intended to support the European Women's Lobby and women's organisations working to promote equality between men and women.

<sup>(1)</sup> OJ C 80, 30.3.2004, p. 115.

<sup>(2)</sup> Opinion of the European Parliament of 20 November 2003 (not yet published in the Official Journal), Council Common Position of 6 February 2004 (OJ C 95 E, 20.4.2004, p. 1), Position of the European Parliament of 30 March 2004 (not yet published in the Official Journal) and Council Decision of 20 April 2004.

<sup>(3)</sup> OJ L 17, 19.1.2001, p. 22.

- (9) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>, hereinafter referred to as 'the Financial Regulation', requires the adoption of a basic act for existing support measures which is in line with its provisions.
- (10) The activities of certain organisations help to promote gender equality, particularly in the case of Community measures targeted specifically at women.
- (11) The European Women's Lobby, in particular, which comprises most of the women's organisations in the 15 Member States and has over 3 000 members, plays a major role in promoting, monitoring and disseminating Community measures aimed at women with a view to achieving equality between men and women. Its activity serves the general European interest.
- (12) Consequently, a structured programme should be adopted to provide financial assistance to such organisations in the form of an operating grant for activities with aims of general European interest in the area of gender equality or with an objective which forms part of the European Union's policy in this area and in the form of certain grants for action.
- (13) This programme covers a wide geographic area owing to the fact that the new Treaty of Accession was signed on 16 April 2003 and that the Agreement on the European Economic Area (EEA) provides for increased cooperation in the field of gender equality between the European Community and its Member States, on the one hand, and the countries of the European Free Trade Association (EFTA), on the other. The EEA Agreement lays down the procedures for the participation of the EFTA States party to the EEA Agreement in Community programmes in this field. Furthermore, this programme should be opened up for participation by Romania and Bulgaria, in accordance with the conditions set out in their Europe Agreements, in their Additional Protocols and in the decisions of the respective Association Councils, and to Turkey in accordance with the conditions laid down in the Framework Agreement between the European Community and the Republic of Turkey on the general principles for the participation of the Republic of Turkey in Community programmes <sup>(2)</sup>.
- (14) The specific nature of organisations active at European level in the field of the promotion of equality between men and women should be taken into account when laying down the procedures for granting such assistance.
- (15) This Decision lays down, for the entire duration of the programme, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure <sup>(3)</sup>, for the budgetary authority during the annual budgetary procedure.
- (16) The Joint Declaration of the European Parliament, the Council and the Commission of 24 November 2003 on the basic acts for grants provides, on an exceptional basis, for transitional clauses concerning the period of eligibility of expenditure to be introduced in this programme.

HAVE DECIDED AS FOLLOWS:

#### Article 1

##### Objective of the programme

1. This Decision hereby establishes a Community action programme (hereinafter referred to as 'the programme') to promote organisations active at European level in the field of equality between men and women.
2. The general objective of the programme is to support the activities of such organisations, of which an ongoing programme of work or a specific action serves the general European interest in the field of equality between men and women or pursues an objective which is part of the European Union's policy in this area.
3. The programme shall start on 1 January 2004 and shall end on 31 December 2005.

#### Article 2

##### Access to the programme

1. In order to be eligible for a grant, an organisation active at European level in the field of equality between women and men must comply with the provisions laid down in the Annex and its activities must:
  - (a) contribute to the development and implementation of Community actions to promote equality between men and women;
  - (b) be in accordance with the principles underlying, and the legal provisions governing, Community action in the policy area of equality between men and women;
  - (c) have transnational potential.
2. The organisation in question must have been legally established for more than one year, acting alone or in the form of various coordinated associations.

<sup>(1)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(2)</sup> OJ L 61, 2.3.2002, p. 29.

<sup>(3)</sup> OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

*Article 3***Participation of third countries**

In addition to organisations established in the Member States, participation in the programme shall be open to organisations active at European level in the field of equality between men and women which are established in:

- (a) accession States which signed the Treaty of Accession on 16 April 2003;
- (b) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement;
- (c) Romania and Bulgaria, on the basis that the conditions for their participation are to be laid down in accordance with the European Agreements, their additional Protocols and the decisions of the respective Association Councils;
- (d) Turkey, on the basis that the conditions for its participation are to be laid down in accordance with the Framework Agreement between the European Community and the Republic of Turkey on the general principles for the participation of the Republic of Turkey in Community programmes.

*Article 4***Selection of beneficiaries**

1. Operating grants shall be awarded directly to the beneficiaries referred to in point 2.1 of the Annex.
2. The award of an operating grant on the basis of an ongoing programme of work, or the award of a grant for a specific action, to an organisation which is pursuing an objective of general European interest forming part of the European Union's policy of promoting equality between men and women must meet the general criteria laid down in the Annex. Organisations entitled to receive grants in accordance with points 2.2 and 2.3 of the Annex shall be selected following a call for proposals.

*Article 5***Awarding of the grant**

1. Operating grants awarded in accordance with points 2.1 and 2.2 of the Annex to organisations active at European level in the field of equality between men and women may cover no more than 80 % of the organisation's total eligible expenditure for the calendar year for which the grant is awarded.
2. Pursuant to Article 113(2) of the Financial Regulation, and by reason of the nature of the organisations covered by this Decision, a derogation shall be made from the principle of degressivity for grants awarded under the programme.

*Article 6***Financial provisions**

1. The financial framework for the implementation of the programme for the period from 2004 to 2005 shall be EUR 2,2 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

*Article 7***Transitional clauses**

For grants awarded in 2004, it will be possible for the period of eligibility of expenditure to start on 1 January 2004, provided that the expenditure does not precede the date on which the grant application was lodged or the date on which the beneficiary's budgetary year starts.

During 2004, in the case of beneficiaries whose budgetary year starts before 1 March, an exception may be granted to the obligation to sign the grant agreement within the first four months of the start of the beneficiary's budgetary year, as referred to in Article 112(2) of the Financial Regulation. In this case, the grant agreement should be signed by 30 June 2004 at the latest.

*Article 8***Monitoring and evaluation**

By 31 December 2006 at the latest, the Commission shall submit a report to the European Parliament and the Council on the achievement of the objectives of the programme. That report shall be based on the results obtained by the beneficiaries and shall assess, in particular, their effectiveness in achieving the objectives set out in Article 1 and the Annex.

*Article 9***Entry into force**

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2004.

Done at Strasbourg, 29 April 2004.

*For the European Parliament*  
The President  
P. COX

*For the Council*  
The President  
M. McDOWELL

## ANNEX

**1. Activities to be supported**

The general objective laid down in Article 1 is to reinforce Community action in the field of equality between men and women and the effectiveness of such action by offering financial support to organisations active at European level in the field of equality between women and men, including the European Women's Lobby.

**1.1. The activities of organisations working to promote equality between men and women which may help reinforce and increase the effectiveness of Community action will include the following:**

- the representation of interested parties at Community level,
- awareness-raising activities aimed at promoting gender equality, in particular through studies, campaigns and seminars,
- the dissemination of information on Community action to promote gender equality,
- action promoting, *inter alia*, the reconciliation of working and family life, the involvement of women in decision-making, the fight against gender-related violence, gender stereotyping and discrimination at work,
- measures fostering cooperation with women's organisations in third countries and raising awareness of the situation of women worldwide.

**1.2. Activities carried out by the European Women's Lobby in representing and coordinating non-governmental women's organisations, and in relaying information on women to the European institutions and non-governmental organisations, will include the following:**

- following-up the Beijing Platform for Action (United Nations),
- working towards improving European legislation on gender equality and the inclusion of women in all policy areas,
- participation at meetings and conferences on gender equality,
- taking action to ensure that the views and interests of women are included in national and European policies, in particular by encouraging their participation in decision-making,
- reinforcing equality between men and women in the EU enlargement process and developing cooperation with women's organisations in the acceding Member States.

**2. Carrying-out of the activities to be supported**

The activities carried out by organisations which are eligible to receive a Community grant under the programme will come under one of the following strands:

**2.1. Strand 1: ongoing activities of the European Women's Lobby, whose members are, *inter alia*, women's organisations in the Member States of the European Union, subject to observance of the following principles:**

- it must be free to select its members,
- it must be free to pursue its activities in accordance with point 1.2.

- 2.2. **Strand 2:** ongoing activities of an organisation pursuing an objective of general European interest in the field of gender equality or an objective forming part of the European Union's policy in this area.

In accordance with Article 2, this applies to a non-profit-making body carrying out its activities exclusively in order to achieve equality between women and men or an organisation with a wider aim which carries out part of its activities exclusively to promote equality between women and men.

An annual operating grant may be awarded to support the implementation of such an organisation's ongoing programme of work.

- 2.3. **Strand 3:** specific actions of an organisation pursuing an objective of general European interest in the field of equality between women and men or an objective forming part of the European Union's policy in this area.

### 3. Selection of beneficiaries

- 3.1. An operating grant may be awarded directly to the European Women's Lobby under Strand 1 of the programme upon approval of an appropriate workplan and budget.
- 3.2. Organisations entitled to receive an operating grant under Strand 2 of the programme will be selected on the basis of calls for proposals.
- 3.3. Organisations entitled to receive a grant for specific action under Strand 3 of the programme will be selected on the basis of calls for proposals.

### 4. Checks and audits

- 4.1. The beneficiary of an operating grant is to keep available for the Commission all the supporting documents, including the audited financial statement, regarding expenditure incurred during the grant year, for a period of five years following the last payment. The beneficiary of a grant is to ensure that, where applicable, supporting documents in the possession of partners or members of the organisations are made available to the Commission.
- 4.2. The Commission may arrange for an audit of the use made of the grant to be carried out either by its own staff or by any other qualified outside body of its choice. Such audits may be carried out at any time during the lifetime of the grant agreement and during a period of five years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.
- 4.3. Commission staff and outside personnel authorised by the Commission are to have an appropriate right of access, in particular to the beneficiary's offices and to all such information, including information in electronic format, as may be needed in order to conduct such audits.
- 4.4. The Court of Auditors and the European Anti-fraud Office (OLAF) are to enjoy the same rights, especially of access, as the Commission.
- 4.5. In order to protect the European Communities' financial interests against fraud and other irregularities, the Commission may carry out on-the-spot checks and inspections under the programme in accordance with Council Regulation (Euratom, EC) No 2185/96 <sup>(1)</sup>. Where necessary, investigations shall be conducted by the European Anti-fraud Office (OLAF) and these shall be governed by Regulation (EC) No 1073/1999 of the European Parliament and of the Council <sup>(2)</sup>.

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<sup>(1)</sup> OJ L 292, 15.11.1996, p. 2.

<sup>(2)</sup> OJ L 136, 31.5.1999, p. 1.

**COUNCIL DECISION  
of 20 December 2000**

**establishing a Programme relating to the Community framework strategy on gender equality  
(2001-2005)**

(2001/51/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 13 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Having regard to the opinion of the Committee of the Regions <sup>(4)</sup>,

Whereas:

- (1) The principle of equal treatment for women and men is a fundamental principle of Community law and the Directives and other acts adopted in keeping with it have played a major part in improving the situation of women.
- (2) Experience of action at Community level has shown that promoting gender equality in practice calls for a combination of measures and, in particular, of legislation and practical action designed to reinforce one another. Experience has also shown that Community work in this area should be continued, combining integration of the gender dimension with specific action. In addition it has shown the importance of the role of men in achieving equality between the sexes.
- (3) The persistence of structural, gender-based discrimination, double - and often multiple-discrimination faced by many women and persistent gender inequality justify the continuation and strengthening of Community action in the field and the adoption of new methods and approaches.
- (4) The European Parliament, in its Resolution on the interim report of the Commission on the implementation of the medium-term Community action programme on equal opportunities for men and women (1996-2000) <sup>(5)</sup>, has called on the Commission to submit a proposal for a fifth action programme.

(5) The Council, in its Conclusions of 22 October 1999 has stressed the importance of a new action programme to promote equality for women and men.

(6) The Fourth World Conference on Women held in Beijing on 15 September 1995 adopted a Declaration and a Platform for Action calling on governments, the international community and civil society to take strategic action to eliminate both discrimination against women and the barriers to gender equality. The final document to emerge from the follow-up meeting and the evaluation made at the UN/General Assembly in New York from 5 to 9 June 2000 (Beijing + 5) confirmed the Declaration and Platform for Action and strengthened the latter in certain areas. They also reaffirmed the need for its speedy and complete implementation.

(7) All Member States and applicant countries have signed and ratified the UN/Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

(8) The European Council, meeting in Lisbon on 23 and 24 March 2000 and at Santa Maria da Feira on 19 and 20 June 2000, called on the Commission and the Member States to further all aspects of equal opportunities in employment policies, for example by reducing occupational segregation and making it easier to reconcile working and family life, in particular by setting a new benchmark for improved childcare provision. It also set quantitative objectives, *inter alia*, with regard to increasing the number of women in employment from an average of 51 % today to more than 60 % by 2010.

(9) In its Resolution of 29 June 2000 <sup>(6)</sup> the Council stressed the importance of a balanced participation by women and men in family and working life.

(10) The new Community framework strategy for gender equality embraces all activities of the Community which in accordance with Article 3(2) of the Treaty aim to eliminate inequalities, and to promote equality, between men and women. This Decision provides the structure for the horizontal and coordinating activities necessary to ensure coherence and to develop synergies with regard to the implementation of the Community framework strategy.

<sup>(1)</sup> OJ C 337 E, 28.11.2000, p. 196.

<sup>(2)</sup> Opinion delivered on 15 November 2000 (not yet published in the Official Journal).

<sup>(3)</sup> Opinion delivered on 28 November 2000 (not yet published in the Official Journal).

<sup>(4)</sup> Opinion delivered on 23 October 2000 (not yet published in the Official Journal).

<sup>(5)</sup> OJ C 279, 1.10.1999, p. 88.

<sup>(6)</sup> OJ C 218, 31.7.2000, p. 5.



- (11) In order to reinforce the added value of Community action, the Commission, in cooperation with the Member States, should ensure, at all levels, the coherence and complementarity of actions implemented in the framework of this Decision and other relevant Community policies, instruments and actions, in particular those concerning a coordinated employment strategy, social policy, the European Social Fund, education, vocational training and youth.
- (12) Measures to strengthen the capacity of key players involved in promoting gender equality should include the exchange of information, experience and best practices among networks, including the network of Parliamentary Committees for Equal Opportunities for Women and Men in Member States and in the European Parliament and the Commission's experts' networks. Promotion of synergy among the members of the networks should be a priority issue.
- (13) It is important that the Commission and the Member States make efforts to ensure that all the texts, guidelines and calls for tenders published under this programme are written in clear, simple and accessible language.
- (14) It is necessary for the success of any Community action for the results to be monitored and evaluated against the aims.
- (15) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(1)</sup>.
- (16) The agreement on the European Economic Area (EEA) provides for increased cooperation in the social field between the European Community and its Member States on the one hand and the countries of the European Free Trade Area participating in the European Economic Area (EFTA/EEA) on the other. Furthermore this Programme should be opened up for participation by the applicant countries of Central and Eastern Europe, in accordance with the conditions established in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils, to Cyprus, Malta and Turkey. This participation should be funded by additional appropriations in accordance with the procedures to be agreed with those countries.
- (17) In the implementation of this programme, work carried out by other international organisations, in particular the United Nations, the Organisation for Economic Cooperation and Development, the International Labour Organisation and the Council of Europe, will be of particular interest.
- (18) A financial reference amount within the meaning of point 34 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure<sup>(2)</sup> is included in this Decision for the entire duration of the programme, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty.
- (19) Since the objectives of the proposed action by the Community, namely to promote gender equality, cannot be sufficiently achieved by the Member States by reason of, *inter alia*, the need for multilateral partnerships, transnational exchange of information and Community-wide dissemination of good practice, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality laid down in the said Article, this Decision does not go beyond what is necessary to achieve those objectives,

HAS ADOPTED THIS DECISION:

#### Article 1

### Establishment of the Programme

This Decision establishes, for the period from 1 January 2001 to 31 December 2005, a Community Action Programme, hereinafter referred to as the 'Programme'. The Programme shall have as its purpose to promote gender equality, in particular by providing assistance and support for the Community framework strategy.

#### Article 2

### Principles

1. The Programme is one of the instruments necessary for the implementation of the overall Community strategy on gender equality, which embraces all Community policies and action aimed at achieving gender equality, including gender mainstreaming policies and specific actions targeted at women.

2. The Programme shall coordinate, support and finance the implementation of horizontal activities under the fields of intervention of the Community framework strategy on gender equality. These fields of intervention are: economic life, equal participation and representation, social rights, civil life, gender roles and stereotypes. The principle of gender equality in the process of enlargement of the Union as well as the gender dimension both in the Community's external relations and in development cooperation policies must permeate all areas of intervention of the Community framework strategy.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ C 172, 18.6.1999, p. 1.

## Article 3

**Objectives**

Within the framework of the principles referred to in Article 2 and taking into account, where appropriate, future legislative activity, the Programme shall have the following objectives:

- (a) to promote and disseminate the values and practices underlying gender equality;
- (b) to improve the understanding of issues related to gender equality, including direct and indirect gender discrimination and multiple discrimination against women, by evaluating the effectiveness of policies and practice through prior analysis, monitoring their implementation and assessing their effects;
- (c) to develop the capacity of players to promote gender equality effectively, in particular through support for the exchange of information and good practice and networking at Community level.

## Article 4

**Community actions**

1. With a view to achieving the objectives referred to in Article 3, the following Community actions will be implemented within a transnational framework:

- (a) raising awareness, primarily by emphasising the Community dimension of the promotion of gender equality and by publicising the results of the Programme, in particular through publications, campaigns and events;
- (b) analysis of factors and policies relating to gender equality, including the collection of statistics, studies, gender impact assessment, tools and mechanisms, development of indicators and benchmarks and effective dissemination of results. This will also include monitoring of the implementation and application of Community equality law by evaluating legislation and practice in order to assess their impact and effectiveness;
- (c) transnational cooperation between parties through the promotion of networking and exchange of experiences at Community level.

2. Arrangements for the implementation of the actions described in paragraph 1 are set out in the Annex.

## Article 5

**Implementation of the Programme and cooperation with Member States**

1. The Commission shall:

- (a) ensure the implementation of the Community actions covered by this Programme;
- (b) regularly exchange views with the Members of the Committee referred to in Article 7, with representatives of social partners at Community level and non-governmental organisations on the implementation and follow-up of the Programme and on related policy orientations. To that end, the Commission shall make the relevant information available to non-governmental organisations and the social partners. The Commission shall inform the said Committee of these points of view;
- (c) promote active partnership and dialogue between all the partners involved in the Programme, *inter alia* to encourage an integrated and coordinated approach to promote gender equality.

2. The Commission, in cooperation with the Member States, shall take the necessary steps to:

- (a) promote the involvement in the Programme of all the parties concerned;
- (b) ensure the dissemination of the results of the actions undertaken within the Programme;
- (c) provide accessible information and ensure appropriate publicity and follow-up with regard to actions supported by the Programme.

## Article 6

**Implementing provisions**

1. The measures necessary for the implementation of this Decision relating to the matters referred to below shall be adopted in accordance with the management procedure referred to in Article 7(2):

- (a) the general guidelines for the implementation of the programme;
- (b) the annual plan of work for the implementation of the programme's actions;
- (c) the financial support to be supplied by the Community;
- (d) the annual budget and the distribution of funding between the various actions of the programme;
- (e) the procedures for selecting the actions to be supported by the Community and the draft list of actions to receive such support submitted by the Commission;
- (f) the criteria for monitoring and evaluating the programme, in particular its cost-effectiveness, and the arrangements for the dissemination of results.

2. The measures necessary for the implementation of this Decision relating to all other matters shall be adopted in accordance with the advisory procedure referred to in Article 7(3).

*Article 7***Committee**

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
4. The Committee shall adopt its rules of procedure.

*Article 8***Cooperation with other Committees**

In order to ensure the consistency and complementarity of the Programme with other measures referred to in Article 9, the Commission shall keep the Committee regularly informed about other Community actions contributing to the promotion of gender equality. Where appropriate, the Commission shall establish regular and structured cooperation between this Committee and the monitoring committees established for other relevant policies, instruments and actions.

*Article 9***Consistency and complementarity**

1. The Commission shall, in cooperation with the Member States, ensure overall consistency with other Union and Community policies, instruments and actions, in particular by establishing appropriate mechanisms and tools, such as gender impact assessment, monitoring tools and benchmarks, to coordinate the activities of this Programme with activities of particular relevance for the advancement of women, such as research, employment, non-discrimination, action to combat poverty and social exclusion, health, education, training and youth policy, culture, justice and home affairs and in the field of enlargement and of the Community's external relations (including external Community activities in the human rights field).
2. The Commission and the Member States shall ensure consistency and complementarity between action undertaken under this Programme and other relevant Union and Community actions, such as those supported by the DAPHNE, STOP, PHARE and MEDA programmes, the research framework programmes to combat social exclusion, the social agenda and the Community action programme to combat discrimination (2001-2006).

The programme must take account of specific actions supporting equal treatment for women and men in the area of employment and work which may be undertaken by the

Community under the Structural Funds, the EQUAL Community initiative or measures promoting cooperation to reinforce employment strategy.

3. The Member States shall facilitate and make all possible efforts to ensure that activities under this Programme are consistent with and complementary to those carried out at national, regional and local levels.

*Article 10***Participation of EFTA/EEA countries, the associated countries of Central and Eastern Europe, Cyprus, Malta and Turkey**

The Programme shall be open to the participation of:

- (a) the EFTA/EEA countries in accordance with the conditions established in the EEA Agreement;
- (b) the applicant countries of Central and Eastern Europe (CEECs) in accordance with the conditions established in the Europe Agreements, in their additional protocols and in the decisions of the respective Association Councils;
- (c) Cyprus, Malta and Turkey, funded by additional appropriations in accordance with procedures to be agreed with those countries.

*Article 11***Funding**

1. The financial reference amount for the implementation of the Programme for the period 2001-2005 shall be EUR 50 million.
2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

*Article 12***Monitoring and evaluation**

1. The Commission shall regularly monitor the Programme in cooperation with the committee referred to in Article 7.
2. The Programme shall be evaluated by the Commission at its mid-term and at the end of the Programme with the assistance of independent experts. The evaluation will assess the relevance, effectiveness and cost-benefit ratio of actions implemented with regard to the objectives referred to in Article 2. It will also examine the impact of the Programme as a whole.

The evaluation will also examine the complementarity between action under the Programme and that pursued under other relevant Community policies, instruments and actions.

3. The Commission shall submit an interim evaluation report by 31 December 2003 at the latest to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

4. The Commission shall submit a final evaluation report on the Framework Strategy and the Programme to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions by 31 December 2006 at the latest.

5. All evaluation reports referred to in paragraphs 3 and 4 shall indicate the extent to which funds have been made available to the Commission, the Member States and public bodies and to NGOs.

*Article 13*

**Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 20 December 2000.

*For the Council*

*The President*

É. GUIGOU

## ANNEX

## I. INTERVENTION AREAS

In accordance with the principles referred to in Article 2, the Programme may operate in one or more of the following fields of intervention, within the limits of the powers conferred by the Treaty on the Community:

**1. Economic life**

This area relates to the remaining gender gaps in the labour market and the ways to tackle them. Action consists in increasing the employment rate of women, reducing unemployment rates among women and to making it easier for women and men to reconcile working with family life.

The issues of gender segregation of the labour market, including vertical segregation (the glass ceiling) and the gender pay gap which are the main subject of the Community programmes referred to in Article 9(2) may fall within the Programme where this will ensure an integrated approach to the different areas covered by it or to types of action not financed by the said programmes.

**2. Equal participation and representation**

This area covers the lack of women's participation in decision-making bodies. The actions consist in adopting strategies and instruments to promote women political, economic and social decision-making at all levels, including activities in external relations and development cooperation (such as the role and participation of women in international missions).

**3. Social rights**

Effective gender mainstreaming needs to be applied to all policy areas which have an impact on women's daily life such as transport, public health and the fight against discrimination on other grounds. The actions are coordinated with those of the Community action programme to combat discrimination and other relevant action programmes. They aim at improving the application of Community legislation, in particular on social protection and in the areas of parental leave, maternity protection and working time, and at finding ways and means of more easily reconciling family and working life, in particular by setting benchmarks for the improved provision of childcare and care for the elderly.

**4. Civil life**

This area covers the enforcement of the human rights of women. The actions promote the recognition of human rights of women, enforce equal opportunity rights and strengthen the fight against gender related violence and trafficking in women.

**5. Gender roles and stereotypes**

This area covers the stereotyped images of women and men and the need to change behaviour, attitudes, norms and values to take account of the evolution of the roles of men and women in society. The actions cover gender mainstreaming in particular in education, training, culture, science, media, youth and sports policies.

## II. ACCESS TO THE PROGRAMME

Under the conditions and implementing arrangements set out in this Annex, access to the Programme is open to all public and/or private bodies and institutions involved in promoting gender equality, and notably to:

- (a) Member States,
- (b) local and regional authorities,
- (c) bodies promoting gender equality,
- (d) the social partners,
- (e) non-governmental organisations,
- (f) universities and research institutes,
- (g) national statistical offices,
- (h) the media.

### III. TYPES OF ACTION

The following actions may be supported by the Programme, in a transnational framework:

#### *Strand 1 — Awareness raising*

1. The organisation of conferences, seminars and events at European level;
2. The organisation in the Member States and in the applicant countries in accordance with Article 10, of a large-scale European event on an annual basis on one of the programme's priorities;
3. The organisation of European media campaigns and events to support the transnational exchange of information and the identification and dissemination of good practice, including the award of an annual prize to companies successful in promoting gender equality and with a view to strengthen the visibility of gender issues;
4. The publication of materials to disseminate the results of the Programme, including the construction of an internet site providing examples of good practice, a forum for the exchange of ideas and a database of potential partners for transnational exchange actions as well as e-links to the existing relevant web-sites in the Member States;
5. The implementation of transnational initiatives such as meetings, seminars or campaigns, on particular topics approved annually, after discussion with the Committee referred to in Article 7. The aim of these activities is to support and improve the synergy among national policies on gender equality and to develop a Community added value;
6. Organisation of seminars and the dissemination of information on and in support of the implementation of Community law in the field of gender equality, with particular attention being paid to the needs and requirements of the applicant countries.

#### *Strand 2 — Analysis and evaluation*

1. The development and dissemination of comparable statistics, broken down by sex and, if possible, by age, and statistical series on women and men's situation in different policy areas;
2. The development and dissemination of methodologies and indicators for evaluating the effectiveness of gender equality policies and practice (benchmarking);
3. The analysis of women's situation in the labour market, implementation of equality legislation in the Member States, influence and impact of social protection and taxation on women and men and advancement of women in access to decision making levels will be carried out and the results and lessons learned will be disseminated;
4. The collection, evaluation and dissemination of recent information and experience regarding successful initiatives, methods and techniques relating to women and the media, including overcoming gender stereotypes and promoting positive and varied portrayals of women and men in the media;
5. The publication of an Annual Report on Gender Equality in the Union including the progress towards the reaching of the benchmarks and the evaluation of the results achieved;
6. The realisation and dissemination of thematic studies on the target areas comparing and contrasting approaches within and across Member States and applicant countries;
7. A feasibility study will analyse the prior conditions for the establishment of a European institute for gender.

When implementing this strand the Commission will in particular ensure consistency and complementarity with the activities conducted by other Commission services or by European agencies; in particular, the European Foundation for the Improvement of Living and Working Conditions and the Community RTD Framework programme and the European Centre for the Development of Vocational Training (Cedefop).

#### *Strand 3 — Strengthening capacity*

The following actions may be supported in order to improve the capacity and effectiveness of key players involved in promoting gender equality.

Transnational exchange actions involving a range of players from at least three Member States, consisting of the transfer of information, lessons learned and good practice. These actions may be undertaken by NGOs or social partners at European level and transnational networks of regional or local authorities and of organisations which aim to promote gender equality.

These actions may include comparison of the effectiveness of processes, methods and tools related to the chosen themes, mutual transfer and application of good practice, exchanges of personnel, joint development of products, processes, strategy and methodology, adaptation to different contexts of methods, tools and processes identified as good practice, and/or dissemination of results, profile-raising materials and events.

## IV. METHOD OF PRESENTING APPLICATIONS FOR SUPPORT

- Strand 1      Actions 2, 3 and 4 of this strand will be implemented in response to open calls for tenders. Actions 5 and 6, to be implemented under the authority of the Member States or by equality bodies, may be subsidised in response to restricted calls for tenders addressed to the Member States.
- Strand 2      This strand will be implemented via the Commission, normally in response to calls for tenders. Action 1 will be implemented following the relevant Eurostat procedures.
- Strand 3      Strand 3 will be implemented in response to open calls for tenders organised by the Commission, which will vet the proposals. The actions may be implemented by NGOs or social partners at European level, transnational networks of regional or local authorities or by transnational networks of organisations, which aim to promote gender equality.

## V. CARRYING OUT THE ACTIONS

1. The actions to be taken may be funded by service contracts following calls for tender or by subsidies for joint financing with other sources. In the latter case, the level of financial assistance by the Commission may not exceed, as a general rule, 80 % of the expenditure actually incurred by the recipient.
  2. When carrying out the Programme, the Commission may require additional resources, including recourse to experts. These requirements will be decided in the context of the Commission's ongoing assessment of resource allocation.
  3. When carrying out the Programme, the Commission may have recourse to technical and/or administrative assistance, to the mutual benefit of the Commission and of the beneficiaries, related to identification, preparation, management, monitoring, audit and control.
  4. The Commission may also undertake information, publication and dissemination actions. It may also undertake evaluation studies and organise seminars, colloquia or other meetings of experts.
  5. The Commission will prepare annual work plans setting out the priorities and actions to be undertaken. Moreover, it will also specify the arrangements and criteria to be applied in selecting and financing actions under the Programme. In so doing, it will seek the opinion of the Committee referred to in Article 7.
  6. Actions undertaken will fully respect the principles of data protection.
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### **III. Other Legislation Related to Gender Issues**

- a) Gender Mainstreaming in Development Cooperation**
  
- b) Domestic Violence and Trafficking in Human Beings**
  
- c) Commission Decisions on Gender Balance within Committees and Expert Groups and on an Advisory Committee on Equal Opportunities**



## **a) Gender Mainstreaming in Development Cooperation**



## REGULATION (EC) No 806/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 April 2004

## on promoting gender equality in development cooperation

THE EUROPEAN PARLIAMENT AND THE  
COUNCIL OF THE EUROPEAN UNION,

equality through the gender mainstreaming strategy,  
there is a need to combine it with specific measures in  
favour of women of all ages.

Having regard to the Treaty establishing the European  
Community, and in particular Article 179 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article  
251 of the Treaty <sup>(1)</sup>,

- (6) Women's contribution to development is achieved in the face of numerous obstacles, limiting the outcome of their work and reducing the benefits for themselves and to society as a whole. The importance of women's economic, social, and environmental roles across the life course, in developing countries has led to increasing international recognition that their full participation without discrimination is indispensable for sustainable and effective development.

Whereas:

(1) The United Nations Millennium Development Goals call for gender equality and empowerment of women, setting clear targets in the field of education that have to be achieved no later than 2015.

- (7) The Community and its Member States were signatories to the Declaration and Platform for Action of the 1995 Fourth World Conference on Women in Beijing, which stressed the need for action against world-wide obstacles to gender equality and established gender mainstreaming as a strategy to promote gender equality.

(2) Two-thirds of children out of school are girls. Enrolment rates for girls are still lower than those for boys and drop-out rates for girls are higher.

(3) Article 3(2) of the Treaty stipulates that in all the activities referred to therein, including a policy in the sphere of development cooperation, the Community is to aim to eliminate inequalities, and to promote equality, between men and women.

- (8) The United Nations Convention on the Elimination of all forms of Discrimination against Women considers discrimination against women as an obstacle to development, and the parties to the Convention agree to eliminate this discrimination using all appropriate means.

(4) A disproportionate majority of the world's poor are women. Therefore, the promotion of gender equality is important for the overarching goal of poverty reduction by 2015.

- (9) Council Regulation (EC) No 2836/98 of 22 December 1998 on integrating of gender issues in development cooperation <sup>(2)</sup> aims to support the mainstreaming of gender analysis in all area of development cooperation policies and to support and facilitate the inclusions of actions addressing major gender disparities. It ensures that gender equality is promoted in national plans designed to implement major elements of the Beijing Platform for Action. That Regulation expired on 31 December 2003.

(5) Gender equality of women and men of all ages is recognised as being important to effective and efficient work against poverty. To achieve the goal of gender

<sup>(1)</sup> Opinion of the European Parliament of 18 December 2003 (not yet published in the Official Journal), Common Position of the Council of 19 February 2004 (not yet published in the Official Journal) and Position of the European Parliament of 30 March 2004 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 354, 30.12.1998, p. 5. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

- (10) The Declaration by the Council and the Commission on the European Community's development policy, adopted on 10 November 2000, states that gender equality is a cross-cutting issue.
- (11) The Commission's Communication to the Council and the European Parliament of 21 June 2001 on the Programme of Action on the mainstreaming of gender equality in Community development cooperation sets the implementation framework for that mainstreaming. That programme of action was endorsed by the Council in its Conclusions of 8 November 2001.
- (12) The European Parliament stressed in its Resolution of 25 April 2002 <sup>(1)</sup> on that programme of action its commitment to gender mainstreaming as the approach to furthering the goal of gender equality and improving the position of women in developing countries.
- (13) This Regulation lays down, for the entire duration of the programme, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure <sup>(2)</sup>, for the budgetary authority during the annual budgetary procedure. In general, EC development-related funding should also contribute towards gender equality as a cross-cutting issue.
- (14) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(3)</sup>.
- (15) Since the objective of the proposed action, namely to promote gender equality in development cooperation, cannot be sufficiently achieved by the Member States, and can therefore, by reason of the scale and effects of that action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SCOPE

Article 1

1. The purpose of this Regulation is to implement measures to promote gender equality in Community development cooperation policies, strategies and interventions.

To this end, the Community shall provide financial assistance and appropriate expertise aimed at promoting gender equality into all its development cooperation policies and interventions in developing countries.

2. The Community support shall be aimed at complementing and reinforcing the policies and capacities of developing countries as well as the assistance provided through other instruments of development cooperation.

Article 2

For the purposes of this Regulation:

- (a) 'gender mainstreaming' concerns planning, (re)organisation, improvement, and evaluation of policy processes, so that a gender equality perspective is incorporated in all development policies, strategies and interventions, at all levels and at all stages by the actors normally involved therein;
- (b) specific measures to prevent or compensate for disadvantages linked to sex may be maintained or introduced with a view to ensuring equality in practice between men and women; such measures should, in the first instance, aim at improving the situation of women in the field covered by this Regulation.

Article 3

The objectives to be pursued by this Regulation, in accordance with the goal of promoting gender equality and empower women as specified by the United Nations Millennium Development Goals, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women, the outcome of the

<sup>(1)</sup> OJ C 131 E, 5.6.2003, p. 153

<sup>(2)</sup> OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

Special Session of the General Assembly 'Women 2000: gender equality, development and peace for the 21st Century', are the following:

- (a) to support gender mainstreaming in all areas of development cooperation, combined with specific measures in favour of women of all ages, with the goal of promoting gender equality as an important contribution to poverty reduction;
- (b) to support endogenous public and private capacities in developing countries which can take the responsibility and initiative for promoting gender equality.

#### Article 4

1. Activities in the field of promoting gender equality eligible for financing include, in particular:

- (a) supporting specific measures related to access to, and monitoring of, resources and services for women, in particular, in the areas of education and training, health, economic and social activities, employment and infrastructure, and to participation in political decision-making processes;
- (b) promoting the collection, dissemination, analysis and improvement of statistics disaggregated by sex and age, development and dissemination of methodologies, guidelines, ex-ante and ex-post gender impact assessments, thematic studies, qualitative and quantitative indicators, and other operational instruments;
- (c) supporting awareness-raising and advocacy work and the establishment of stakeholders' networks in the field of gender equality;
- (d) supporting activities aiming at strengthening institutional and operational capacities of key stakeholders in partner countries in the development process, such as the provision of gender specialists, training and technical assistance.

2. The instruments to be financed in the course of the activities referred to in paragraph 1 may take the form of:

- (a) methodological and organisational studies on gender mainstreaming relevant to all age-groups;
- (b) technical assistance including gender impact assessment, education, training, the information society or other services;

- (c) supplies, audits, evaluation and monitoring missions.

3. Community financing may cover:

- (a) investment projects, with the exception of the purchase of real estate, and
- (b) operating expenditure of a beneficiary body including recurring administrative and maintenance costs that should not exceed the cost foreseen for administrative expenditure.

Operating grants shall be awarded on a gradually decreasing basis.

#### Article 5

In the selection and implementation of activities referred to in Article 4(1), particular attention shall be paid to:

- (a) the potential of interventions and programmes to act as a catalyst and a multiplier in order to support the strategy of gender mainstreaming on a large scale in Community interventions;
- (b) strengthening strategic partnerships and initiating transnational cooperation which reinforces, in particular, regional cooperation in the area of gender equality;
- (c) the pursuit of cost-effectiveness and sustainable impact in the design and planning of interventions;
- (d) the clear definition and monitoring of objectives and indicators;
- (e) efforts made to promote synergies with policies and programmes targeting reproductive and sexual health and rights and poverty diseases, in particular HIV/AIDS programmes, measures to combat violence, girl-child issues, the education and training of women of all ages, ageing people, the environment, human rights, conflict prevention, democratisation and the participation of women in the political, economic and social decision-making process;
- (f) gender mainstreaming in the six priority areas of EC development policy;

(g) the importance of paying special attention to the education of girls, and to the fact that the situation of unequal opportunities for girls could start to be redressed by recruiting and training local female teachers.

(e) international organisations, such as the United Nations and its agencies, funds and programmes, as well as development banks, financial institutions, global initiatives, international public/private partnerships;

(f) research and development studies institutes and universities.

## CHAPTER II

### IMPLEMENTATION OF AID

#### Article 6

1. Financial support pursuant to this Regulation shall take the form of grants or contracts.

2. A grant may finance the entire costs of an action only if it is shown that this is essential for it to be carried out, with the exception of actions resulting from the implementation of financing agreements with third countries or actions managed by international organisations. In other cases, a financial contribution from the beneficiaries defined in Article 7 shall be sought. In specifying the amount of the contribution requested, regard shall be given to the capacity of the partners concerned and the nature of the operation in question.

3. Contracts with beneficiaries may cover the financing of their operating expenditure, in accordance with Article 4(3)(b).

4. The provision of financial assistance under this Regulation may entail co-financing with other donors, in particular with Member States, the United Nations, and international or regional development banks or financial institutions.

#### Article 7

1. The partners eligible for financial assistance under this Regulation include:

(a) administrative authorities and agencies at national, regional and local government levels;

(b) local communities, NGOs, particularly those operating in the field of gender equality, women's organisations, community-based organisations, trade unions, and other not-for-profit natural and legal persons;

(c) the local private sector;

(d) regional organisations;

#### Article 8

1. Where operations are the subject of financing agreements between the Community and the recipient country, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the Community.

2. All financing agreements, grant agreements or contracts concluded pursuant to this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with the usual procedures laid down by the Commission under the rules in force, in particular those of the Financial Regulation applicable to the general budget of the European Communities <sup>(1)</sup>.

3. The necessary measures shall be taken to emphasise the Community character of the aid provided pursuant to this Regulation.

#### Article 9

1. Participation in invitations to tender and the award of procurement contracts shall be open on equal terms to all natural and legal persons of the Member States, assimilated countries, and in all developing countries. It shall be open to other third countries on the condition of reciprocity. It may be extended, under exceptional and duly justified circumstances, to other third countries.

2. Supplies shall originate in the Member States, the beneficiary country or other developing countries. In the cases mentioned in paragraph 1, supplies may originate in other third countries.

<sup>(1)</sup> Council Regulation (EC, Euratom) No 1605/2002 (O) L 248, 16.9.2002, p. 1).



*Article 10*

1. In order to secure the objectives of consistency and complementarity referred to in the Treaty and to ensure maximum effectiveness of these operations as a whole, the Commission may take all necessary coordination measures, including in particular:

- (a) the establishment of a system for the systematic exchange and analysis of information on the operations financed and those which the Community and the Member States propose to finance;
- (b) the on-the-spot coordination of the implementation of operations through regular meetings and exchanges of information between the representatives of the Commission and the Member States in the recipient country, local authorities and other decentralised bodies.

2. The Commission should raise the question of gender as a standing item on the agenda during meetings between representatives of the Commission, Member States and partner countries in order to increase awareness of gender issues in emerging areas of development cooperation.

3. The Commission shall draw on the experiences of Member States, other donors and partner countries in the field of gender mainstreaming and women's empowerment.

4. The Commission, together with the Member States, may take any initiative necessary for ensuring proper coordination with the other donors concerned, in particular those forming part of the United Nations system.

## CHAPTER III

**FINANCIAL PROVISIONS AND RELEVANT DECISION-MAKING PROCEDURES***Article 11*

1. The financial framework for the implementation of this Regulation for the period 2004 to 2006 is hereby set at EUR 9 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspectives.

*Article 12*

1. The Commission shall be responsible for drafting strategic programming guidelines, defining the Community's cooperation in terms of measurable objectives, priorities,

deadlines for specific areas of action, assumptions and expected outcomes. Programming shall be multiannual and indicative.

2. An annual exchange of views shall take place once a year on the basis of a presentation by the representative of the Commission of the general guidelines for the operations to be carried out, in the framework of a joint meeting of the Committees referred to in Article 14(1).

*Article 13*

1. The Commission shall be responsible for appraising, deciding on and administering operations covered by this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation.

2. The work programme shall be adopted under the procedure referred to in Article 14(2).

*Article 14*

1. The Commission shall be assisted by the geographically competent Committee for development.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 45 days.

3. The Committee shall adopt its rules of procedure.

## CHAPTER IV

**REPORTS***Article 15*

1. After each budget year, the Commission shall submit in its annual report on EC development policy to the European Parliament and to the Council, information on the operations financed in the course of that year and the Commission's conclusions on the implementation of this Regulation over the previous budget year.

The summary shall in particular provide information about the strengths, weaknesses and outcomes of operations, those with whom contracts have been concluded as well as the results of any independent evaluations of specific operations.

2. One year before the expiry of this Regulation, the Commission shall submit an independent appraisal report on its implementation to the European Parliament and the Council with a view to establishing whether its objectives have been achieved and providing guidelines for improving the effectiveness of future operations. On the basis of this appraisal report, the Commission may make proposals for the future of this Regulation and, if necessary, proposals for its amendment.

*Article 16*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply until 31 December 2006.

Done at Strasbourg, 21 April 2004.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

D. ROCHE

## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 2836/98**

**of 22 December 1998**

**on integrating of gender issues in development cooperation**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130w thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Acting in accordance with the procedure referred to in Article 189c of the Treaty <sup>(2)</sup>,

- (1) Whereas the importance of women's economic and social roles in developing countries has led to increasing international recognition that their full participation without discrimination is indispensable for sustainable and effective development;
- (2) Whereas their contribution to development is presently achieved in the face of formidable obstacles specific to women, limiting the outcome of their work and reducing the benefits to society as a whole;
- (3) Whereas these obstacles include persistent and severe disparities between women and men in the right to equal participation in development for women, access to basic services, particularly in the areas of education, training and health, access to decision-making and control over economic resources;
- (4) Whereas development interventions have frequently failed to address adequately the differences between women's and men's situations, roles, opportunities and priorities, thereby reducing their overall success;
- (5) Whereas redressing gender disparities and enhancing the role of women are crucial for social justice and the effectiveness of development efforts;
- (6) Whereas development cooperation must encourage the necessary accompanying changes in attitudes, structures and mechanisms at political, economic, legal, community and household level;
- (7) Whereas it is now recognized that though specific efforts to enhance the role of women in development remain as necessary as ever, the focus must widen to encompass both men's and women's roles, responsibilities, needs, access to resources and decision-making, and the inter-relationship between them, known as gender issues;
- (8) Whereas development effectiveness requires that gender analysis should be systematically integrated into the conception, design, implementation and evaluation of all development interventions and strategies;
- (9) Whereas the foregoing analysis is set out in more detail in the Commission's communication to the Council and the European Parliament on integrating gender issues in development cooperation of 18 September 1995 and was endorsed by the Council in its Resolution of 20 December 1995;
- (10) Whereas in a series of conclusions from 1982 to 1993 the Council has stressed the importance it attaches to women's role in development;
- (11) Whereas the Community and its Member States were signatories to the Nairobi Forward-Looking Strategies in 1985 and to the Declaration and Platform for Action of the Fourth World Conference

<sup>(1)</sup> OJ C 371, 8. 12. 1997, p. 74.

<sup>(2)</sup> Opinion of the European Parliament of 19 November 1997 (OJ C 371, 8. 12. 1997), Council Common Position of 30 March 1998 (OJ C 204, 30. 6. 1998, p. 18.) and Decision of the European Parliament of 17 September 1998 (OJ C 313, 12. 10. 1998.).

- on Women at Beijing in 1995, which stressed the need for action against worldwide obstacles to gender equality and to ensure that this perspective is reflected in all policies and programmes;
- (12) Whereas the United Nations Convention on the Elimination of all forms of Discrimination against Women (1979) considers discrimination against women as an obstacle to development which parties agree to eliminate using all appropriate means, and the UN Declaration on the Right to Development (1986) emphasizes the right of all persons to participate in and contribute to development and the need to undertake effective measures to ensure that women have an active role in the development process;
- (13) Whereas the European Parliament has emphasized in numerous Resolutions, and particularly in its Resolution of 14 May 1992 on the situation of women in developing countries and its Resolution of 15 June 1995 on the fourth World Conference on Women in Beijing, the need to integrate proper attention to women's roles and priorities in Community development cooperation and to take adequate measures to ensure active implementation of the conclusions of the Beijing Conference;
- (14) Whereas the Resolution of the Council and the Representatives of the Governments of the Member States of 20 December 1995 endorses the Commission's communication on the same subject, requires the full integration of gender issues in development cooperation and coordination between the Commission and Member States in this field, and sets out guidelines which also translate into the field of development cooperation the political commitments undertaken at Beijing;
- (15) Whereas this approach is further endorsed by the Resolution of the Council and the Member States on human and social development of 22 November 1996;
- (16) Whereas the recognized importance of these issues to development effectiveness makes it appropriate to envisage specific activities aimed at ensuring adequate attention to gender issues across the mainstream of Community financial instruments, which should increasingly assume responsibility for these key questions;
- (17) Whereas the most effective approach is strategic and precisely targeted sensitization initiatives capable of achieving a substantial multiplier effect, rather than the funding of small-scale operational projects; whereas Community development cooperation aid should also be used to a greater extent for specific action in favour of women;
- (18) Whereas the importance of Community activities in the field of development cooperation necessitates measures by the Community to ensure its implementation of its commitments at Beijing, complementary to those undertaken by Member States;
- (19) Whereas measures need to be taken to finance the activities covered by this Regulation;
- (20) Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995 on the incorporation of financial provisions into legislative acts<sup>(1)</sup> is included in this Regulation for the period 1999 to 2003, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;
- (21) Whereas detailed rules for implementation, and in particular the form of action, the recipients of the aid and the decision-making procedures should be laid down,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The Community shall provide financial assistance and technical expertise to support the mainstreaming of the gender perspective into all its development cooperation policies and interventions.
2. The assistance provided pursuant to this Regulation shall complement, reinforce and coordinate assistance provided pursuant to other instruments of development cooperation, including those existing at intergovernmental and/or national level, with a view to taking fully into account gender considerations in Community policies and interventions.
3. For the purposes of this Regulation 'gender issues' means the different and interrelated roles, responsibilities and opportunities of women and men relative to development, which are culturally specific and socially constructed, and can change over time, *inter alia*, as a result of policy interventions.

#### Article 2

1. The following are the central objectives of activities to be carried out pursuant to this Regulation:
  - (a) to support the mainstreaming of gender analysis in all areas of development cooperation, taking particular account of the legal and actual status of women and men, their needs and their contribution to society and

<sup>(1)</sup> OJ C 102, 4. 4. 1996, p. 4.

the family; to support the adoption of a gender-sensitive approach in the conception, design and implementation of Community development policies and interventions at macro, meso and micro level, as well as in their monitoring and evaluation;

- (b) to support and facilitate the inclusion of actions addressing major gender disparities and on an appropriately large scale, particularly with regard to access to resources, services and participation in the decision-making processes in political, economic and social life, in the mainstream of Community development interventions;
- (c) to lead progressively to a situation in 2003 where a substantially increased percentage of Community interventions satisfy the OECD/DAC criteria for gender integration or positive action;
- (d) to develop and promote endogenous public and private capacities in developing countries which can take the responsibility and initiative for mainstreaming the gender dimension in the development effort.

2. Activities eligible for financing include, in particular:

- provision of technical advice and support on the integration of gender issues in development interventions;
- activities aimed at including gender implications in analyses, policies, country and sector strategies;
- schemes to build up the institutional and operational capacities of developing countries on gender issues at national, regional and local level, including, as regards legislative and administrative action, on equal rights for men and women;
- supporting the collection and dissemination of data desegregated by sex;
- development of methodologies, guidelines, manuals, procedures, indicators and other operational instruments seeking to improve the integration of gender issues in development activities;
- thematic monitoring and evaluations;
- training and sensitization of key decision-makers in the Commission and the developing countries;
- support to the formulation, follow-up and monitoring of national plans in developing countries designed to implement the Platform for Action of the Beijing Conference;
- actions within the framework of coordination with Member States on integrating gender issues in development cooperation.

3. Particular attention will be given to incorporating gender issues into emerging areas of development cooperation.

*Article 3*

Beneficiaries of activities carried out under this Regulation may include public authorities and government agencies, decentralized departments, regional bodies, universities and research centres, traditional and local communities, trade unions, non-governmental organizations, public utility associations and associations representing local people, particularly women, as well as cooperatives and agricultural and craft-based credit institutions.

Priority will be given to endogenous structures that can play a role in developing local capacities with respect to gender.

*Article 4*

1. Community financing of the operations referred to in Article 1 shall cover a period of five years (1999 to 2003).

The financial reference amount for the implementation of this programme for the period 1999 to 2003 shall be ECU 25 million.

The annual appropriations shall be authorized by the budgetary authority within the limits of the financial perspective.

2. The budgetary authority shall determine the appropriations available for each financial year taking account of the principles of sound financial management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

*Article 5*

1. The instruments to be employed in the course of the activities referred to in Article 2 shall include studies, appropriate technical assistance, including the use of experts in the short and long term, education, training or other services, supplies and works, as well as audits and evaluation and monitoring missions.

2. Community financing may cover both investment, with the exception of the purchase of real estate, and, since the project must, if possible, aim at medium-term viability, recurring expenditure (including administrative, maintenance and operating expenditure).

However, with the exception of training, education and research programmes, operating costs may normally be covered only during the start-up phase and on a gradually decreasing basis.

3. A contribution from the beneficiaries defined in Article 3 shall be sought.

Their contribution shall be according to their means and the nature of the operation concerned.

4. Opportunities may be sought for cofinancing with other donors, especially with Member States and the international organizations concerned.

5. The necessary measures shall be taken to emphasize the Community character of the aid provided pursuant to this Regulation.

6. In order to attain the objectives of consistency and complementarity laid down in the Treaty and with the aim of guaranteeing optimum efficiency for the totality of these operations, the Commission may take all coordination measures necessary, including in particular:

- (a) the establishment of a system for the systematic exchange and analysis of information on operations financed or being considered for financing by the Community and the Member States;
- (b) on-the-spot coordination of these operations by means of regular meetings and exchanges of information between the representatives of the Commission and Member States in the beneficiary countries.

7. The Commission can organize meetings between representatives of the Commission, Member States and partner countries in order to increase awareness of gender issues in emerging areas of development cooperation.

8. In order to obtain the greatest possible impact internationally and nationally, the Commission, in liaison with the Member States, may take any initiative in order to ensure proper coordination and close collaboration, particularly as regards the exchange of information, with the beneficiary countries and the providers of funds and other international agencies involved, in particular those forming part of the United Nations system.

#### *Article 6*

Financial support pursuant to this Regulation shall take the form of grants.

#### *Article 7*

1. The Commission shall be responsible for appraising, deciding on and administering operations covered by this Regulation according to the budgetary and other procedures in force, and in particular those laid down in the Financial Regulation applicable to the general budget of the European Communities.

2. Decisions relating to grants of more than ECU 1 million for individual operations financed pursuant to this Regulation shall be adopted under the procedure laid down in Article 8.

3. The Commission shall be authorized to approve, without seeking the opinion of the Committee referred to in Article 8, any extra commitments needed for covering any expected or real cost overruns in connection with the operations, provided that the overrun or additional requirement is less than or equal to 20 % of the initial commitment fixed by the financing decision.

4. All financing agreements or contracts concluded pursuant to this Regulation shall provide for the Commission and the Court of Auditors to conduct on-the-spot checks in accordance with the usual procedures laid down by the Commission under the rules in force, in particular those of the Financial Regulation applicable to the general budget of the European Communities.

5. Where operations are the subject of financing agreements between the Community and the recipient country, such agreements shall stipulate that the payment of taxes, duties or any other charges is not to be covered by the Community.

6. Participation in invitations to tender and the award of contracts shall be open on equal terms to all natural and legal persons of the Member States and of the recipient State. It may be extended to other developing countries and, in exceptional cases which are fully justified, to other third countries.

7. Supplies shall originate in the Member States, the recipient State or other developing countries. In exceptional cases, where circumstances warrant, supplies may originate in other countries.

8. Particular attention will be given to:

- the pursuit of cost-effectiveness and sustainable impact in project design,
- the clear definition and monitoring of objectives and indicators of achievement for all projects,
- the capacity of projects and programmes to address the objective of mainstreaming the gender dimension on a large scale in Community interventions.

#### *Article 8*

1. The Commission shall be assisted by the geographically determined Committee competent for development.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

The Commission shall adopt measures which apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event:

- The Commission shall defer application of the measures which it has decided for a period of one month from the date of such communication.
- The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous subparagraph.

#### *Article 9*

An exchange of views shall take place once a year on the basis of a presentation by the representative of the Commission of the general guidelines for the operations to be carried out in the year ahead, in the framework of a joint meeting of the Committees referred to in Article 8(1).

#### *Article 10*

1. After each budget year, the Commission shall submit an annual report to the European Parliament and the Council giving an account of the activities financed under this Regulation relative to integrating gender issues in Community development cooperation and of their outcome, together with:

- a list of the projects indicating the names of the implementing partners and the percentage of the operational cost financed by the Community;
- an evaluation, complete with figures, of the implementation of this Regulation over that period.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 1998.

2. The Commission shall regularly assess operations financed by the Community with a view to establishing whether the objectives aimed at by those operations have been achieved and to providing guidelines for improving the effectiveness of future operations. The Commission shall submit to the Committee referred to in Article 8 a summary of the assessments made which assessments, if appropriate, may be examined by the Committee. The assessment reports shall be available to any Member States requesting them.

3. Each month, the Commission shall inform the Member States of the operations and projects approved, stating their cost and nature, the recipient country and partners.

4. The financing guide indicating guidelines and criteria for project selection shall be published and distributed among interested parties by the Commission's services, including its delegations in the recipient countries.

#### *Article 11*

1. This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

It shall apply until 31 December 2003.

2. Three years after this Regulation enters into force, the Commission shall submit to the European Parliament and to the Council an overall assessment of the operations financed the Community under this Regulation, which may be accompanied by suggestions concerning the future of this Regulation.

*For the Council*  
*The President*  
C. EINEM





**b) Domestic Violence  
and Trafficking in  
Human Beings**



## I

*(Acts whose publication is obligatory)*

## DECISION No 803/2004/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 21 April 2004

**adopting a programme of Community action (2004 to 2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk (the Daphne II programme)**

THE EUROPEAN PARLIAMENT AND THE  
COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European  
Community, and in particular Article 152 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and  
Social Committee <sup>(1)</sup>,

Having regard to the opinion of the Committee of the  
Regions <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article  
251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) Physical, sexual and psychological violence against children, young people and women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life, constitute a breach of their right to life, safety, freedom, dignity and physical and emotional integrity and a serious threat to the physical and mental health of the victims of such violence. The effects of such violence are so widespread throughout the Community as to constitute a genuine health scourge and an obstacle to the enjoyment of safe, free and just citizenship.

<sup>(1)</sup> OJ C 208, 3.9.2003, p. 52.

<sup>(2)</sup> OJ C 256, 24.10.2003, p. 85.

<sup>(3)</sup> Opinion of the European Parliament of 3 September 2003 (not yet published in the Official Journal), Council Common Position of 1 December 2003 (OJ C 54 E, 2.3.2004, p. 1), Position of the European Parliament of 9 March 2004 (not yet published in the Official Journal) and Decision of the Council of 30 March 2004.

- (2) It is important and necessary to recognise the serious immediate and long-term implications of violence for health, psychological and social development, and for the equal opportunities of those concerned, for individuals, families and communities, and the high social and economic costs to society as a whole.

- (3) According to the World Health Organisation's definition, health is a state of complete physical, mental and social well being and not merely the absence of disease or infirmity. A World Health Assembly resolution adopted at the 49th World Health Assembly in Geneva in 1996 declares that violence is a leading worldwide public health problem. The World report on violence and health presented by the World Health Organisation in Brussels on 3 October 2002 recommends promoting primary prevention responses, strengthening responses for victims of violence and increasing collaboration and exchange of information on violence prevention.

- (4) These principles are recognised in numerous conventions, declarations and protocols of the main international organisations and institutions such as the United Nations, the International Labour Organisation, the World Conference on Women and the World Congress against Commercial Sexual Exploitation of Children. This important work performed by international organisations should be complemented by that of the Community. Indeed, Article 3(1)(p) of the Treaty requires Community action to include a contribution to the attainment of a high level of health protection.

- (5) The Charter of Fundamental Rights of the European Union <sup>(4)</sup> I reaffirms, inter alia, the rights to dignity, equality and solidarity. It includes a number of specific provisions to protect and promote physical and mental integrity, equal treatment for men and women, the

<sup>(4)</sup> OJ C 364, 18.12.2000, p. 1.

rights of the child and non-discrimination, as well as to prohibit inhuman or degrading treatment, slavery and forced labour, and child labour.

necessary to establish a second phase of the programme, hereinafter referred to as the 'Daphne II programme'.

- (6) The Commission has been called upon to draw up and implement action programmes to combat such violence by the European Parliament, inter alia, in its Resolutions of 19 May 2000 on the communication from the Commission to the Council and the European Parliament. 'For further actions in the fight against trafficking in women' <sup>(1)</sup>, and of 20 September 2001 on female genital mutilation <sup>(2)</sup>.
- (7) The action programme set up by Decision No 293/2000/EC of the European Parliament and of the Council of 24 January 2000 adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preventive measures to fight violence against children, young people and women <sup>(3)</sup>, has helped increase awareness within the European Union and increase and consolidate cooperation between organisations in the Member States active in combating violence.
- (8) The Daphne programme has received an overwhelming response and clearly meets a deeply felt need within the voluntary sector. The funded projects have already started to have multiplying effects on activities by non governmental organisations and institutions in Europe. This programme has already substantially contributed to the development of EU policy on combating violence, trafficking, sexual abuse and pornography, with implications well beyond the boundaries of the European Union, as mentioned in the mid-term report of the Daphne programme.
- (9) In its Resolution of 4 September 2002 on the mid-term review of the Daphne programme <sup>(4)</sup>, the European Parliament stresses that the Daphne programme meets a basic need for effective strategies to combat violence and that it must continue beyond 2003, and calls on the Commission to submit a proposal for a new action programme which incorporates all experience acquired since 1997 and which is allocated appropriate funding.
- (10) It is desirable to ensure continuity for the projects supported by the Daphne programme to carry on building on the experiences gained and to provide opportunities to promote the European added value stemming from these experiences and, to this end, it is
- (11) The Community can bring added value to the actions predominantly to be undertaken by Member States concerning the prevention of violence, including abuse and sexual exploitation perpetrated against children, young people and women and the protection of victims and groups at risk through the dissemination and exchange of information and experience, the promotion of an innovative approach, the joint establishment of priorities, the development of networking as appropriate, the selection of Community-wide projects and the motivation and mobilisation of all parties concerned. These actions should also encompass children and women brought to the Member States through human trafficking. The Community can also identify and stimulate good practice.
- (12) The Daphne II programme can bring added value by identifying and stimulating good practice, by encouraging innovation and by exchanging relevant experience of actions undertaken in the Member States, including an exchange of information relating to the various laws, sanctions and the results achieved. In order to achieve the objectives of this programme and use the resources available in the most efficient way, the areas in which work is to be done must be carefully chosen by selecting projects which offer a greater Community added value and show the way towards trying out and disseminating innovative ideas to prevent and combat violence, in the context of a multidisciplinary approach.
- (13) Since the objectives of the proposed action, namely to prevent and combat all forms of violence against children, young people and women cannot be sufficiently achieved by the Member States and can therefore, due to the need for a coordinated and multidisciplinary approach favouring the setting up of transnational frameworks for training, information, study and exchange of good practice, and the selection of Community-wide projects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (14) The Daphne II programme should be of a five-year duration in order to allow sufficient time for actions to be implemented to achieve the objectives set and for lessons and experience to be collated and integrated in good practice across the European Union.

<sup>(1)</sup> OJ C 59, 23.2.2001, p. 307.

<sup>(2)</sup> OJ C 77 E, 28.3.2002, p. 126

<sup>(3)</sup> OJ L 34, 9.2.2000, p. 1.

<sup>(4)</sup> OJ C 272 E, 13.11.2003, p. 390

- (15) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (16) This Decision lays down, for the entire duration of the programme, a financial framework constituting the prime reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure <sup>(2)</sup>, for the budgetary authority during the annual budgetary procedure,

HAVE DECIDED AS FOLLOWS:

#### Article 1

##### Subject matter and scope

The second phase of the Daphne programme to prevent and combat all forms of violence against children, young people and women and to protect victims and groups at risk (the Daphne II programme) is hereby established for the period 1 January 2004 to 31 December 2008. It may be extended.

For the purposes of the Daphne II programme, 'children' shall include adolescents up to the age of 18 years, in accordance with international instruments relating to the rights of the child.

However, projects with actions particularly designed for beneficiary groups such as, for example, 'teenagers' (13 to 19 years old) or people 12 to 25 years old, shall be considered as targeting the category of so-called 'young people'.

#### Article 2

##### Programme objectives

1. The Daphne II programme shall contribute to the general objective of providing citizens with a high level of protection from violence, including protection of physical and mental health.

The aim of this programme shall be to prevent and combat all forms of violence, occurring in the public or the private domain, against children, young people and women by taking

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ C 172, 18.6.1999, p. 1. Agreement as amended by Decision 2003/429/EC of the European Parliament and of the Council (OJ L 147, 14.6.2003, p. 25).

preventive measures and by providing support for victims and groups at risk, including in particular the prevention of future exposure to violence. It further aims to assist and encourage non governmental organisations and other organisations active in this field.

2. The actions to be implemented under the Daphne II programme, as set out in the Annex, are intended:

- (a) to promote transnational actions:
- (i) to set up multidisciplinary networks, particularly in support of victims of violence and groups at risk;
  - (ii) to ensure the expansion of the knowledge base, the exchange of information and the identification and dissemination of good practice, including through training, study visits and staff exchange;
  - (iii) to raise awareness of violence among targeted audiences such as specific professions, competent authorities and identified sectors of the general public with a view both to improving understanding of, and promoting the adoption of zero tolerance towards violence and to encouraging support for victims and the reporting of incidences of violence to the competent authorities;
  - (iv) to study phenomena related to violence and possible methods of preventing it and explore and address the root causes of violence at all levels of society;
- b) to implement complementary actions, on the initiative of the Commission, such as studies, the formulation of indicators, data gathering, statistics broken down by gender and by age, seminars, and meetings of experts or other activities to reinforce the programme's knowledge base and to disseminate the information obtained under this programme.

#### Article 3

##### Access to the programme

1. The Daphne II programme shall be open to participation by public or private organisations and institutions (local authorities at the competent level, university departments and research centres) working to prevent and combat violence against children, young people and women or to protect against such violence or to provide support for victims or to implement targeted actions to promote rejection of such violence or to encourage attitude and behaviour change towards vulnerable groups and victims of violence.

2. This programme shall also be open to the participation of:

- (a) Accession States which signed the Treaty of Accession on 16 April 2003;
- (b) the EFTA/EEA countries, in accordance with the conditions laid down in the EEA Agreement;
- (c) Romania and Bulgaria, for which the conditions for participation are to be laid down in accordance with the respective European Agreements, the additional protocols thereto and the decisions of the respective Association Councils;
- (d) Turkey, for which the conditions for participation are to be laid down in accordance with the Framework Agreement between the European Community and the Republic of Turkey on the general principles for the participation of the Republic of Turkey in Community programmes <sup>(1)</sup>.

3. To be eligible for funding under this programme, projects shall involve at least two Member States, have a maximum duration of two years and be geared to the objectives set out in Article 2.

#### Article 4

##### Actions under the programme

The Daphne II programme shall comprise the following types of actions:

- (a) identification and exchanges of good practice and work experience with a view in particular to implementing preventive measures and assistance to victims;
- (b) mapping surveys, studies and research;
- (c) field work with the involvement of the beneficiaries, particularly children and young people, in all phases of project design, implementation and evaluation;
- (d) creation of sustainable multidisciplinary networks;
- (e) training and design of educational packages;
- (f) development and implementation of treatment programmes and support for victims and people at risk on the one hand, and perpetrators on the other hand, whilst ensuring the safety of victims;

<sup>(1)</sup> OJ L 61, 2.3.2002, p. 29.

- (g) development and implementation of awareness-raising actions targeting specific audiences, design of materials to supplement those already available, or adaptation and use of existing materials in other geographical areas or for other target groups;
- (h) dissemination of the results obtained under the two Daphne programmes including their adaptation, transfer and use by other beneficiaries or in other geographical areas;
- (i) identification and enhancement of actions contributing to positive treatment of people at risk of violence, namely to an approach which encourages respect for them and promotes their well-being and self-fulfilment.

#### Article 5

##### Funding

1. The financial framework for the implementation of the Daphne II programme for the period from 1 January 2004 to 31 December 2008 is hereby set at EUR 50 million, of which EUR 29 million is for the period until 31 December 2006.

For the period following 31 December 2006, the amount shall be deemed to be confirmed if it is consistent for this phase with the financial perspectives in force for the period commencing in 2007.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

3. Funding decisions shall be followed by grant agreements between the Commission and the beneficiaries of the grant.

4. The proportion of financial support from the Community budget shall not exceed 80 % of the total cost of the project.

However, the complementary actions referred to in Article 2(2)(b) may be financed up to 100 %, subject to a ceiling of 15 % of this programme's total annual financial allocation.

#### Article 6

##### Implementation of the programme

1. The Commission shall be responsible for the management and implementation of the Daphne II programme and shall ensure that any result or product funded by this programme is available free of charge and in electronic form.

2. The Commission shall ensure a balanced approach, in respect of the three target groups, namely children, young people and women with regard to the implementation of this programme.

3. The measures necessary for the implementation of this Decision relating to the annual plan of work shall be adopted in accordance with the management procedure referred to in Article 7(2).

4. The measures necessary for the implementation of this Decision relating to all other matters shall be adopted in accordance with the advisory procedure referred to in Article 7(3).

#### Article 7

##### Committee

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at two months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4. The Committee shall adopt its rules of procedure.

#### Article 8

##### Monitoring and evaluation

1. The Commission shall take all the measures necessary to ensure the monitoring and continuous evaluation of the Daphne II programme taking account of the general and specific objectives set out in Article 2 and of the specific objectives set out in the Annex.

2. At the latest by 1 June 2006, the Commission shall submit an evaluation report to the European Parliament and to the Council, assessing the relevance, utility, sustainability, effectiveness and efficiency of the Daphne II programme so far. This report shall include an ex ante evaluation in order to support possible future action. Moreover, in parallel to the presentation of the Preliminary Draft Budget for 2007, the Commission shall forward to the budgetary authority the result of the qualitative and quantitative evaluation of performance against the annual implementation plan.

In the context of the budgetary procedure for 2007, the Commission shall, at the latest by 1 June 2006, report on the consistency of the amount for 2007/2008 with the new financial perspectives. If applicable, the Commission shall take the necessary steps within the budgetary procedures for 2007/2008 to ensure the consistency of the annual appropriations with the new financial perspectives.

3. On completion of the Daphne II programme, the Commission shall submit a final report to the European Parliament and to the Council. Inter alia, this report shall contain information on the work carried out in the context of the actions set out in Point II(c) of the Annex, as a basis for evaluating the need for further political action.

4. The Commission shall also send the reports referred to under paragraphs 2 and 3 to the European Economic and Social Committee and to the Committee of the Regions.

#### Article 9

##### Entry into force

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Done at Strasbourg, 21 April 2004.

For the European Parliament

The President

P. COX

For the Council

The President

D. ROCHE

## ANNEX

## SPECIFIC OBJECTIVES AND ACTIONS

## I. TRANSNATIONAL ACTIONS

**1. Identification and exchange of good practice and WORK experience**

*Objective:* to support and encourage the exchange, adaptation and use of good practice for application in other contexts or geographical areas

To stimulate and promote the exchange of good practice at Community level on protection of and support for children, young people and women — victims or groups at risk — with special emphasis on the following areas:

- (a) prevention (general or targeting specific groups);
- (b) protection and support to victims (psychological, medical, social, educational and legal assistance, the provision of accommodation, removing and protecting victims, training and reintegration into social and working life);
- (c) procedures to protect the best interests of children, particularly those who are victims of prostitution, young people and women who are the victims of violence;
- (d) measurement of the real impact of the different types of violence on victims and society within Europe, in order to establish an appropriate response.

**2. Mapping surveys, studies and research**

*Objective:* to study phenomena related to violence

To support research activities, gender- and age-based studies and mapping surveys in the field of violence in order, inter alia:

- (a) to explore and assess the various causes, circumstances and mechanisms of the emergence and growth of violence, including coercion to carry out actions such as begging or theft;
- (b) to analyse and compare existing prevention and protection models;
- (c) to develop prevention and protection practice;
- (d) to assess the impact of violence, also in terms of health, both on victims and on society as a whole, including the economic costs;
- (e) to study the scope for developing filters which prevent the forwarding of paedophile material via the Internet.
- (f) to undertake studies on children who are the victims of prostitution in order to help prevent this phenomenon by means of better knowledge about the risk factors.

**3. Field work with the involvement of the beneficiaries**

*Objective:* actively to implement proven methods in the prevention of and protection from violence

To support the implementation of methods, training modules and assistance (psychological, medical, social, educational, legal, and to reintegration) directly involving the beneficiaries.



#### 4. Creation of sustainable multidisciplinary networks

*Objective:* to support and encourage both non-governmental organisations (NGOs) and other organisations, including local authorities (at the competent level), active in the fight against violence to work together.

To support the establishment and strengthening of multidisciplinary networks and to encourage and support cooperation between NGOs and the various organisations and public bodies, in order to improve the level of knowledge and understanding of one another's roles and to provide comprehensive multi-disciplinary support to victims of violence and to those at risk.

The networks will in particular carry out activities to address the problems of violence, geared to:

- (a) producing a common framework for the analysis of violence, including the definition of different types of violence, the causes of violence and all its consequences, and for the implementation of appropriate multi-sector responses;
- (b) assessing the types and effectiveness of measures and practices for the prevention and detection of violence, and for the provision of support for victims of violence, in particular to ensure that they are never again exposed to violence;
- (c) promoting activities to tackle this problem at both international and national level.

#### 5. Training and design of educational packages

*Objective:* to develop educational packages on the prevention of violence and on positive treatment

To design and test educational packages and actions on the prevention of violence against children, young people and women and on positive treatment, as well as on conflict management, for use in schools and adult educational institutions, associations, undertakings, public institutions and NGOs.

#### 6. Development and implementation of treatment programmes

*Objective:* to develop and implement treatment programmes for victims and people at risk, such as children and young people who witness domestic violence, on the one hand, and perpetrators on the other hand, with the aim of preventing violence.

To detect the possible causes, circumstances and mechanisms of the emergence and growth of violence including the nature and motivation of perpetrators of violence and exploiters of commercial violence such as sexual or non-sexual exploitation.

To develop, test and implement treatment programmes based on the above findings.

#### 7. Awareness-raising actiONS targeting specific audiences

*Objective:* to raise awareness and the level of understanding of violence and the prevention of violence against children, young people and women with the aim of promoting zero tolerance of violence, the provision of support to victims and groups at risk, and the reporting of incidences of violence

The following types of actions, amongst others, are eligible for support:

- (a) development and implementation of information and awareness-raising actions aimed at children, young people and women, in particular on the potential risks of violence and ways of avoiding them; other publics to be targeted could also include specific professions such as teachers, educators, medical doctors, youth or social workers, lawyers, police authorities and the media;
- (b) development of Community-wide information sources to assist and inform NGOs and public bodies about publicly available information relevant to the field of violence, the means of preventing it and the rehabilitation of victims, compiled by governmental, non-governmental, academic and other sources; this should enable information to be integrated into all the relevant information systems;

- (c) encouragement of the introduction of measures and specific services to increase reporting to the authorities of violence and different forms of trade in children, young people and women for sexual and non-sexual exploitation;
- (d) promotion of publicity campaigns, using mass means of communication, focusing on the condemnation of violence and the provision of support for victims in the form of psychological, moral and practical assistance.

The design of materials to supplement those already available, or to adapt them for use in other geographical areas or for other target groups will be encouraged.

## II. COMPLEMENTARY ACTIONS

In order to ensure that all areas of the programme are fully covered, even in the absence of proposals — or of suitable proposals — for a given area, the Commission will carry out more proactive activities to fill any gaps.

Consequently, the programme will finance complementary actions, on the Commission's initiative, in the following areas, *inter alia*:

- (a) to enable the development of indicators on violence, so that the quantified impact of policies and projects can be measured. This must be based on existing experience of all forms of violence against children, young people and women;
- (b) to set up a procedure for regular and sustainable data collection, preferably with the assistance of Eurostat, in order to be able to quantify violence in the Union more accurately;
- (c) to identify policy issues, wherever possible, in the light of the work achieved by funded projects, with the aim of suggesting common policies on violence at Community level and reinforcing judicial practice;
- (d) to analyse and evaluate the funded projects in order to prepare for a European Year against violence;
- (e) to disseminate on a Europe-wide scale good practices stemming from funded projects; this can be achieved by various means:
  - (i) producing and distributing written material, CD-ROMs, video films, setting up Internet sites and promoting campaigns and publicity spots;
  - (ii) seconding of or organising exchanges of experienced staff from one organisation to another in order to assist with the implementation of new solutions or practices that have proven to be effective elsewhere;
  - (iii) enabling a single NGO to use results obtained under the two Daphne programmes, to adapt them or to transfer them to another Union area or another category of beneficiary;
  - (iv) establishing a help-desk to assist NGOs, especially those participating for the first time, to elaborate their projects, to liaise with other partners and to use and benefit from the Daphne acquis;
  - (v) cooperating as closely as possible with mass media.
- f) to organise seminars for all stakeholders involved in funded projects in order to improve management and networking capability and to support information exchange;
- g) to conduct studies and organise meetings of experts and seminars directly connected with the carrying out of the action of which they form an integral part.

In addition, the Commission may have recourse, in carrying out the programme, to technical assistance organisations, the financing of which will be provided for within the overall financial framework and, under the same conditions, to experts.

(Acts adopted pursuant to Title VI of the Treaty on European Union)

**COUNCIL FRAMEWORK DECISION**  
**of 19 July 2002**  
**on combating trafficking in human beings**

(2002/629/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29, Article 31(e) and Article 34(2)(b) thereof,

Having regard to the proposal of the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas:

(1) The Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice <sup>(3)</sup>, the Tampere European Council on 15 and 16 October 1999, the Santa Maria da Feira European Council on 19 and 20 June 2000, as listed in the Scoreboard, and the European Parliament in its Resolution of 19 May 2000 on the communication from the Commission 'for further actions in the fight against trafficking in women' indicate or call for legislative action against trafficking in human beings, including common definitions, incriminations and sanctions.

(2) Council Joint Action 97/154/JHA of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children <sup>(4)</sup> needs to be followed by further legislative action addressing the divergence of legal approaches in the Member States and contributing to the development of an efficient judicial and law enforcement cooperation against trafficking in human beings.

(3) Trafficking in human beings comprises serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable persons, as well as the use of violence, threats, debt bondage and coercion.

(4) The UN protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crimes, represents a decisive step towards international cooperation in this field.

(5) Children are more vulnerable and are therefore at greater risk of falling victim to trafficking.

(6) The important work performed by international organisations, in particular the UN, must be complemented by that of the European Union.

(7) It is necessary that the serious criminal offence of trafficking in human beings be addressed not only through individual action by each Member State but by a comprehensive approach in which the definition of constituent elements of criminal law common to all Member States, including effective, proportionate and dissuasive sanctions, forms an integral part. In accordance with the principles of subsidiarity and proportionality, this Framework Decision confines itself to the minimum required in order to achieve those objectives at European level and does not go beyond what is necessary for that purpose.

(8) It is necessary to introduce sanctions on perpetrators sufficiently severe to allow for trafficking in human beings to be included within the scope of instruments already adopted for the purpose of combating organised crime such as Council Joint Action 98/699/JHA of 3 December 1998 on money laundering, the identification, tracing, freezing, seizing and confiscation of the instrumentalities and the proceeds from crime <sup>(5)</sup> and Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union <sup>(6)</sup>.

<sup>(1)</sup> OJ C 62 E, 27.2.2001, p. 324.

<sup>(2)</sup> OJ C 35 E, 28.2.2002, p. 114.

<sup>(3)</sup> OJ C 19, 23.1.1999, p. 1.

<sup>(4)</sup> OJ L 63, 4.3.1997, p. 2.

<sup>(5)</sup> OJ L 333, 9.12.1998, p. 1. Joint Action as last amended by Framework Decision 2001/500/JHA (OJ L 182, 5.7.2001, p. 1).

<sup>(6)</sup> OJ L 351, 29.12.1998, p. 1.

- (9) This Framework Decision should contribute to the fight against and prevention of trafficking in human beings by complementing the instruments adopted in this area such as Council Joint Action 96/700/JHA of 29 November 1996 establishing an incentive and exchange programme for persons responsible for combating trade in human beings and sexual exploitation of children (STOP)<sup>(1)</sup>, Council Joint Action 96/748/JHA of 16 December 1996 extending the mandate given to the Europol Drugs Unit<sup>(2)</sup>, Decision No 293/2000/EC of the European Parliament and of the Council of 24 January 2000 adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preventive measures to fight violence against children, young persons and women<sup>(3)</sup>, Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network<sup>(4)</sup>, Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union<sup>(5)</sup> and Council Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters<sup>(6)</sup>.
- (10) Council Joint Action 97/154/JHA should accordingly cease to apply in so far as it concerns trafficking in human beings,

(d) payments or benefits are given or received to achieve the consent of a person having control over another person

for the purpose of exploitation of that person's labour or services, including at least forced or compulsory labour or services, slavery or practices similar to slavery or servitude, or

for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography.

2. The consent of a victim of trafficking in human beings to the exploitation, intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 have been used.

3. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable trafficking offence even if none of the means set forth in paragraph 1 have been used.

4. For the purpose of this Framework Decision, 'child' shall mean any person below 18 years of age.

## Article 2

### Instigation, aiding, abetting and attempt

Each Member State shall take the necessary measures to ensure that the instigation of, aiding, abetting or attempt to commit an offence referred to in Article 1 is punishable.

HAS ADOPTED THIS FRAMEWORK DECISION:

## Article 1

### Offences concerning trafficking in human beings for the purposes of labour exploitation or sexual exploitation

1. Each Member State shall take the necessary measures to ensure that the following acts are punishable:

the recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person, where:

- (a) use is made of coercion, force or threat, including abduction, or
- (b) use is made of deceit or fraud, or
- (c) there is an abuse of authority or of a position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved, or

<sup>(1)</sup> OJ L 322, 12.12.1996, p. 7.

<sup>(2)</sup> OJ L 342, 31.12.1996, p. 4.

<sup>(3)</sup> OJ L 34, 9.2.2000, p. 1.

<sup>(4)</sup> OJ L 191, 7.7.1998, p. 4.

<sup>(5)</sup> OJ L 105, 27.4.1996, p. 1.

<sup>(6)</sup> OJ L 191, 7.7.1998, p. 1.

## Article 3

### Penalties

1. Each Member State shall take the necessary measures to ensure that an offence referred to in Articles 1 and 2 is punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition.

2. Each Member State shall take the necessary measures to ensure that an offence referred to in Article 1 is punishable by terms of imprisonment with a maximum penalty that is not less than eight years where it has been committed in any of the following circumstances:

- (a) the offence has deliberately or by gross negligence endangered the life of the victim;
- (b) the offence has been committed against a victim who was particularly vulnerable. A victim shall be considered to have been particularly vulnerable at least when the victim was under the age of sexual majority under national law and the offence has been committed for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including pornography;

- (c) the offence has been committed by use of serious violence or has caused particularly serious harm to the victim;
- (d) the offence has been committed within the framework of a criminal organisation as defined in Joint Action 98/733/JHA, apart from the penalty level referred to therein.

#### Article 4

##### Liability of legal persons

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for an offence referred to in Articles 1 and 2, committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

- (a) a power of representation of the legal person, or
- (b) an authority to take decisions on behalf of the legal person, or
- (c) an authority to exercise control within the legal person.

2. Apart from the cases already provided for in paragraph 1, each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 have rendered possible the commission of an offence referred to in Articles 1 and 2 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in an offence referred to in Articles 1 and 2.

4. For the purpose of this Framework Decision, legal person shall mean any entity having such status under the applicable law, except for States or other public bodies in the exercise of State authority and for public international organisations.

#### Article 5

##### Sanctions on legal persons

Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 4 is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

- (a) exclusion from entitlement to public benefits or aid, or
- (b) temporary or permanent disqualification from the practice of commercial activities, or
- (c) placing under judicial supervision, or
- (d) a judicial winding-up order, or
- (e) temporary or permanent closure of establishments which have been used for committing the offence.

#### Article 6

##### Jurisdiction and prosecution

1. Each Member State shall take the necessary measures to establish its jurisdiction over an offence referred to in Articles 1 and 2 where:

- (a) the offence is committed in whole or in part within its territory, or
- (b) the offender is one of its nationals, or
- (c) the offence is committed for the benefit of a legal person established in the territory of that Member State.

2. A Member State may decide that it will not apply or that it will apply only in specific cases or circumstances, the jurisdiction rules set out in paragraphs 1(b) and 1(c) as far as the offence is committed outside its territory.

3. A Member State which, under its laws, does not extradite its own nationals shall take the necessary measures to establish its jurisdiction over and to prosecute, where appropriate, an offence referred to in Articles 1 and 2 when it is committed by its own nationals outside its territory.

4. Member States shall inform the General Secretariat of the Council and the Commission accordingly where they decide to apply paragraph 2, where appropriate with an indication of the specific cases or circumstances in which the decision applies.

#### Article 7

##### Protection of and assistance to victims

1. Member States shall establish that investigations into or prosecution of offences covered by this Framework Decision shall not be dependent on the report or accusation made by a person subjected to the offence, at least in cases where Article 6(1)(a) applies.

2. Children who are victims of an offence referred to in Article 1 should be considered as particularly vulnerable victims pursuant to Article 2(2), Article 8(4) and Article 14(1) of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings<sup>(1)</sup>.

3. Where the victim is a child, each Member State shall take the measures possible to ensure appropriate assistance for his or her family. In particular, each Member State shall, where appropriate and possible, apply Article 4 of Framework Decision 2001/220/JHA to the family referred to.

#### Article 8

##### Territorial scope

This Framework Decision shall apply to Gibraltar.

<sup>(1)</sup> OJ L 82, 22.3.2001, p. 1.

*Article 9***Application of Joint Action 97/154/JHA**

Joint Action 97/154/JHA shall cease to apply in so far as it concerns trafficking in human beings.

*Article 10***Implementation**

1. Member States shall take the necessary measures to comply with this Framework Decision before 1 August 2004.
2. By the date referred to in paragraph 1, Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision. The Council will, by 1 August 2005 at the latest, on the basis of a report established on the basis of this information and a written report transmitted by the

Commission, assess the extent to which Member States have taken the necessary measures in order to comply with this Framework Decision.

*Article 11***Entry into force**

This Framework Decision shall enter into force on the day of its publication in the Official Journal.

Done at Brussels, 19 July 2002.

*For the Council*  
*The President*  
T. PEDERSEN

**c) Commission Decisions on  
Gender Balance within Committees  
and Expert Groups  
and on an Advisory Committee  
on Equal Opportunities**





## COMMISSION DECISION

of 19 June 2000

relating to gender balance within the committees and expert groups established by it

(notified under document number C(2000) 1600)

(2000/407/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

representation of women and men in public and private life.

Having regard to the Treaty establishing the European Community,

(9) At the EU Paris Conference of 17 April 1999 on women and men in power called on the Member States to promote the observance of equality between women and men as regards appointments to decision-making bodies.

Whereas:

(1) According to Article 2 of the Treaty, equality between men and women is one of the tasks to be promoted by the Community.

(10) It is appropriate to adopt specific measures to promote the balanced participation of women and men in the decision-making process with the aim of bringing about equality of opportunity between women and men.

(2) According to Article 3 of the Treaty, in all its activities the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

(11) The Commission has already committed itself to reach a percentage of 40 % of women in all committees and panels in the field of research <sup>(1)</sup>. This aim shall be pursued in other fields, within the expert groups and committees established by the Commission.(3) Despite Council Recommendation 96/694/EC of 2 December 1996 on the balanced participation of women and men in the decision-making process <sup>(1)</sup>, women are still under-represented in decision-making bodies, including those established by the Commission <sup>(2)</sup>.(12) This decision shall not apply to any committees falling within the scope of the Council Decision 1999/468/EC of 28 June 1999 on the procedures for the exercise of implementing powers conferred on the Commission <sup>(4)</sup>,

(4) The European Parliament's Resolution of 11 February 1994 on women in decision-making called on the European Union Member States to take specific action in the field and was followed by a Council Resolution of 27 March 1995 on the balanced participation of women and men in decision-making.

DECIDES:

(5) Equality between women and men is essential to human dignity and democracy, and constitutes a fundamental principle of Community law, of the constitutions and laws of the Member States, and of international and European conventions.

*Article 1*

This decision applies to expert groups and committees established by the Commission. It covers newly created expert groups and committees as well as existing ones.

(6) The Commission has adopted a policy of gender mainstreaming and the incorporation of equal opportunities for women and men in all Community activities and policies.

*Article 2*

The Commission commits itself to creating a gender balance in expert groups and committees established by it. The aim in the medium term is to reach at least 40 % of members of one sex in each expert group and committee.

(7) At the United Nations Fourth World Conference on Women (Beijing 1995) the European Community committed itself to promoting women in decision-making.

For expert groups and committees already in existence, the Commission will aim to redress the gender balance upon each replacement of a member and when the term of a member of an expert group or committee comes to an end.

(8) The Council of Europe, in its Recommendation 1413 of 1999 recommends that its Member States achieve equal

<sup>(1)</sup> OJ L 319, 10.12.1996, p. 11.<sup>(2)</sup> COM(2000)120 final.<sup>(3)</sup> COM(1999)76 final.<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 3*

Three years after the adoption of the present Decision the Commission shall review its implementation and publish a report, which shall include statistical analysis of the gender balance in expert groups and committees. Depending on the results of this review the Commission shall, at the time, take whatever action is appropriate.

Done at Brussels, 19 June 2000.

*For the Commission*  
Anna DIAMANTOPOULOU  
*Member of the Commission*

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## COMMISSION DECISION

of 19 July 1995

amending Decision 82/43/EEC relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men

(95/420/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas the constant improvement of living and working conditions and the harmonious development of economies constitute objectives of the European Economic Community;

Whereas the Heads of State and Government, meeting within the European Council on 10 and 11 December 1994, emphasized that equality of opportunity for women and men, together with the fight against unemployment, is a paramount task of the European Union and its Member States;

Whereas equality between women and men is essential to human dignity and democracy, and constitutes a fundamental principle of Community law, of the constitutions and laws of the Member States, and of international and European conventions;

Whereas the application in practice of the principle of equal treatment for women and men must be encouraged by improved cooperation and exchanges of views and experience between those bodies which have special responsibility in the Member States for promoting equality of opportunity, the social partners and the Commission;

Whereas the full implementation in practice of the six Directives, two recommendations and nine resolutions adopted by the Council in the field of equal opportunities<sup>(1)</sup> can be speeded up considerably with the assistance of national bodies having a network of specialized information at their disposal;

<sup>(1)</sup> Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (OJ No L 45, 19. 2. 1975, p. 19);  
 Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ No L 39, 14. 2. 1976, p. 40);  
 Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ No L 6, 10. 1. 1979, p. 24);  
 Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes (OJ No L 225, 12. 8. 1986, p. 40);  
 Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood (OJ No L 359, 19. 12. 1986, p. 56);  
 Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (OJ No L 348, 28. 11. 1992, p. 1);  
 Council resolution of 12 July 1982 on the promotion of equal opportunities for women (OJ No C 186, 21. 7. 1982, p. 3);  
 Council resolution of 7 June 1984 on action to combat unemployment amongst women (OJ No C 161, 21. 6. 1984, p. 4);  
 Resolution of the Council and of the Ministers for Education meeting within the Council of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education (OJ No C 166, 5. 7. 1985, p. 1);  
 Second Council resolution of 24 July 1986 on the promotion of equal opportunities for women (OJ No C 203, 12. 8. 1986, p. 2);  
 Council resolution of 16 December 1988 on the reintegration and late integration of women into working life (OJ No C 333, 28. 12. 1988, p. 1);  
 Council resolution of 29 May 1990 on the protection of the dignity of women and men at work (OJ No C 157, 27. 6. 1990, p. 3);  
 Council resolution of 21 May 1991 on the third medium-term Community action programme on equal opportunities for women and men (1991-1995) (OJ No C 142, 31. 5. 1991, p. 1);  
 Council resolution of 22 June 1994 on the promotion of equal opportunities for women and men through action by the European Structural Funds (OJ No C 231, 20. 8. 1994, p. 1);  
 Council resolution of 27 March 1995 on the balanced participation of women and men in decision-making (OJ No L 168, 4. 7. 1995, p. 3);  
 Council recommendation of 13 December 1984 on the promotion of positive action for women (84/635/EEC) (OJ No L 331, 19. 12. 1984, p. 34);  
 Council recommendation of 31 March 1992 on child care (92/241/EEC) (OJ No L 123, 8. 5. 1992, p. 16).

Whereas the preparation, implementation and monitoring of the Community's activities to promote equal opportunities require close cooperation with specialized bodies in the Member States and with the social partners, thereby necessitating an institutional framework for the purpose of regular consultation with those parties ;

Whereas the Advisory Committee on Equal Opportunities for Women and Men, established by Commission Decision 82/43/EEC of 9 December 1981 <sup>(1)</sup>, has made a significant contribution to the Community's activities in this field, particularly in terms of following up successive Community action programmes both through its opinions and through its cooperation, on a partnership basis, with the Commission ;

Whereas the composition and terms of reference of the Committee have to be adapted to take account of current and future developments with a view to promoting equal opportunities, as outlined in the Commission communication of 19 July 1995 proposing a new medium-term action programme in this connection ; whereas it is therefore necessary to amend Decision 82/43/EEC,

HAS DECIDED AS FOLLOWS :

#### *Article 1*

Decision 82/43/EEC is hereby amended as follows :

1. Articles 2 and 3 are replaced by the following text :

#### *Article 2*

1. The Committee shall assist the Commission in formulating and implementing the Community's activities aimed at promoting equal opportunities for women and men, and shall foster ongoing exchanges of relevant experience, policies and practices between the Member States and the various parties involved.

2. To achieve the aims referred to in paragraph 1 above, the Committee shall :

- (a) assist the Commission in the development of instruments for monitoring, evaluating and disseminating the results of measures taken at Union level to promote equal opportunities ;
- (b) contribute to the implementation of Community action programmes in the field, mainly by analysing the results and suggesting improvements to the measures taken ;
- (c) contribute, through its opinion, to the preparation of the Commission's annual report on progress made towards achieving equality of opportunity for women and men ;
- (d) encourage exchanges of information on measures taken at all levels to promote equal opportunities and, where appropriate, put forward proposals for possible follow-up action ;
- (e) deliver opinions or submit reports to the Commission, either at the latter's request or on its own initiative, on any matter of relevance to the promotion of equal opportunities in the Community.

3. Procedures for the circulation of the Committee's opinions and reports shall be determined in agreement with the Commission. They may be published as an annex to the Commission's annual report on equal opportunities for women and men.

#### *Article 3*

1. The Committee shall comprise 40 members, i.e. :

- (a) one representative per Member State from ministries or government departments responsible for promoting equal opportunities ; the representative shall be designated by the Government of each Member State ;

<sup>(1)</sup> OJ No L 20, 28. 1. 1982, p. 35.

- (b) one representative per Member State from national committees or bodies set up by official decision, having specific responsibility for equal opportunities between women and men through representation of the sectors concerned. Where there are several committees or bodies dealing with these matters in a Member State, the Commission shall determine which body, by its objectives, structure, representativeness and degree of independence, is best qualified to be represented on the Committee. Any country without such committees shall be represented by members of bodies deemed by the Commission to perform analogous duties; the representative shall be appointed by the Commission, acting on a proposal from the relevant national committee or body;
- (c) — five members representing employers' organizations at Community level;  
— five members representing workers' organizations at Community level.

The representatives shall be appointed by the Commission, acting on a proposal from the social partners at Community level.

2. Two representatives of the European Women's Lobby shall attend meetings of the Committee as observers.

3. Representatives of international and professional organizations and other associations making duly substantiated requests to the Commission may be given observer status.'

2. Article 6 is replaced by the following text :

*'Article 6*

The Committee shall elect a chairperson, with a one-year term of office, from among its members. Election shall be by a majority of two-thirds of the members present; a minimum of half the total votes in favour shall, nevertheless, be required.

Two vice-chairpersons shall be elected by the same majority and under the same conditions. They shall be required to stand in for the chairperson in the absence of the latter. The chairperson and vice-chairpersons must belong to different Member States. They shall constitute the Bureau of the Committee, which shall meet before each meeting of the Committee.

The Commission shall organize the work of the Committee in close cooperation with the chairperson. The draft agenda for meetings of the Committee shall be set by the Commission in agreement with the chairperson. The Secretariat of the Committee shall be provided by the Commission's Equal Opportunities Unit. The minutes of the Committee's meetings shall be drawn up by the Commission and submitted to the Committee for approval.'

3. A third paragraph is added to Article 8 as follows :

'3. One or more members of the Committee may participate as observers in the activities of other advisory committees of the Commission, and shall inform the Committee accordingly.'

4. Articles 10 and 11 are replaced by the following text :

*'Article 10*

The Committee shall be convened by the Commission and shall meet on its premises. It shall meet at least twice a year.

*Article 11*

The Committee's deliberations deal with the requests for opinion presented by the Commission or with the opinions which the Committee delivers on its own initiative. They are not followed by a vote.

The Commission, when requesting the Committee's opinion, may set a deadline within which the opinion should be delivered.

The views expressed by the different categories represented in the Committee are recorded in the minutes, which are transmitted to the Commission.

Where the opinion requested has been agreed unanimously by the Committee, it will draft common conclusions which are annexed to the minutes.

*Article 2*

This Decision shall take effect on 1 January 1996.

Done at Brussels, 19 July 1995.

*For the Commission*

Pádraig FLYNN

*Member of the Commission*

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# COMMISSION

## COMMISSION DECISION

of 9 December 1982

relating to the setting up of an Advisory Committee on Equal Opportunities for Women and Men

(82/43/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Whereas the application in practice of the principle of equal treatment for women and men must be encouraged by improved cooperation and exchanges of views and experience between those bodies which have special responsibility in the Member States for promoting equality of opportunity, and the Commission;

Whereas the full implementation in practice of Council Directives 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women<sup>(1)</sup>, 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions<sup>(2)</sup> and 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security<sup>(3)</sup> will be speeded up considerably as a result of the assistance of national bodies with a network of specialized information at their disposal;

Taking account of Directive 72/161/EEC of 17 April 1972 concerning the provision of socio-economic guidance for and the acquisition of occupational skills by persons engaged in agriculture<sup>(4)</sup>;

Whereas the preparation and implementation of Community measures concerning the employment of women, the improvement of the position of women who are self-employed and those engaged in agricul-

ture, and the promotion of equal opportunities require close cooperation with the specialized bodies in Member States;

Whereas, therefore, an institutional framework should be set up for the purpose of regular consultations with those bodies,

HAS DECIDED AS FOLLOWS:

### Article 1

The Commission hereby establishes an Advisory Committee on Equal Opportunities for Women and Men, hereinafter called 'the Committee'.

### Article 2

1. The Committee shall advise the Commission on the formulation and implementation of its policy to promote women's employment and equal treatment and ensure the continuous exchange of information on experience gained and measures undertaken in the Community in the fields in question.

2. To achieve the aims referred to in paragraph 1 above, the Committee:

- shall exchange information with the Commission on action taken at Community and national level and where appropriate on the follow-up to be given such action,
- shall issue opinions or forward reports to the Commission, particularly in regard to the equal opportunities policy, either at the latter's request or on its own initiative, and to this end shall promote exchanges of information on experience in Member States in sectors within its competence.

3. Procedures for the circulation of the Committee's opinions and reports shall be determined in agreement with the Commission.

<sup>(1)</sup> OJ No L 45, 19. 2. 1975, p. 19.

<sup>(2)</sup> OJ No L 39, 14. 2. 1976, p. 40.

<sup>(3)</sup> OJ No L 6, 10. 1. 1979, p. 24.

<sup>(4)</sup> OJ No L 96, 23. 4. 1972, p. 15.

*Article 3*

1. The Committee shall have 20 members.
2. It shall be composed of two representatives from each Member State appointed from among the members of national committees or bodies set up by official decision, specifically responsible for questions of women's employment and/or equal opportunities for women and men and representing the sectors concerned. Where there are several such committees or bodies dealing with this subject in a Member State, the Commission shall determine which body, by its objectives, structure, representativeness and degree of independence is best qualified to be represented on the Committee. Any country without such a committee shall be represented by members of bodies considered by the Commission to perform analogous duties.
3. The members of the Committee shall be appointed individually by the Commission, acting on a proposal from the bodies referred to in paragraph 2 above, from among the members of those bodies or their secretariats.
4. The representatives of the two sides of industry at Community level may attend meetings of the Committee as observers, according to the procedure to be determined by their organizations and the Commission.

*Article 4*

An alternate shall be appointed for each member of the Committee under the same conditions as those laid down in Article 3. Without prejudice to the provisions of Article 7, the alternate shall not attend meetings of the Committee nor participate in its work unless the relevant member is prevented from doing so.

*Article 5*

The term of office of members of the Committee shall be three years and shall be renewable.

At the end of the three-year period, the members of the Committee shall continue in office until a replacement is provided or their term of office is renewed.

A member's term of office shall come to an end before the expiry of the three-year period in the event of her/his resignation, the termination of her/his membership of the organization which she/he represents, or her/his death. A member's terms of office may also be terminated if the organization which nominated her/him requests her/his replacement.

The member shall be replaced for the remainder of the term of office in accordance with the procedure laid down in Article 4.

No remuneration shall be attached to member's duties; travelling and subsistence expenses for meetings of the Committee and the working parties set up under Article 8 shall be met by the Commission in accordance with the administrative rules in force.

*Article 6*

The Committee shall elect a chairperson from among its members for a period of one year. Election shall be by a majority of two-thirds of the members present; a minimum of 10 votes in favour shall, nevertheless, be required.

The Committee shall elect two vice-chairpersons by the same majority and under the same conditions. In the absence of the chairperson, one of the vice-chairpersons shall take the Chair. The chairperson and vice-chairpersons shall belong to different Member States.

The Commission shall organize the work of the Committee in close cooperation with the chairperson, and secretarial services shall be provided by the Bureau for questions concerning employment and equal treatment for women of the Commission.

*Article 7*

The chairperson may invite any person who is specially qualified in a particular subject on the agenda to take part in its work as an expert.

Experts shall only take part in the work on the particular subject for which their attendance is requested.

*Article 8*

1. The Committee may set up working parties.
2. For the preparation of its opinions, the Committee may entrust a rapporteur or an outside expert with the task of drawing up reports in accordance with procedures to be determined.

*Article 9*

Measures adopted under Article 7 and 8 having financial implications for the budget of the European Communities shall be submitted for the prior agreement of the Commission and shall be implemented in accordance with the administrative rules in force.

*Article 10*

1. The Committee shall be convened by the Commission and shall meet on its premises. It shall meet at least three times a year.
2. Representatives of the Commission shall be entitled to take part in meetings of the Committee and its working parties.

*Article 11*

Where the Committee's deliberations are followed by a vote, a two-thirds majority of the members present shall be required. The minimum shall, however, be 10 votes in favour. Where any minority views are expressed, they shall be recorded in the minutes which shall form an Annex to the opinion.



*Article 12*

Without prejudice to the provisions of Article 214 of the Treaty, members of the Committee are required not to disclose information obtained in the course of their work on the Committee or its working parties when informed by the Commission that the opinion requested or question asked concerns a confidential matter.

In such cases, only members of the Committee and representatives of the Commission departments shall attend meetings.

*Article 13*

This Decision shall enter into force on 1 January 1982.

Done at Brussels, 9 December 1981.

*For the Commission*

*The President*

G. THORN



## **B. OTHER COMMUNITY ACTS**



# **I. Council Recommendations**



## COUNCIL RECOMMENDATION

of 2 December 1996

on the balanced participation of women and men in the decision-making process

(96/694/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 235 thereof,

Having regard to the proposals from the Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,Having regard to the opinion of the Economic and Social Committee<sup>(2)</sup>,

- (1) Whereas the Council has adopted a series of legislative instruments and a number of political commitments in the field of equal treatment and equal opportunities for men and women<sup>(3)</sup> <sup>(4)</sup> <sup>(5)</sup> <sup>(6)</sup>;

<sup>(1)</sup> OJ No C 166, 10. 6. 1996, p. 276.

<sup>(2)</sup> OJ No C 204, 15. 7. 1996, p. 21.

<sup>(3)</sup> — Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (OJ No L 45, 19. 2. 1975, p. 19).

— Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ No L 39, 14. 2. 1976, p. 40).

— Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ No L 6, 10. 1. 1979, p. 24).

— Council Directive 86/378/EEC of 24 July 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes (OJ No L 225, 12. 8. 1986, p. 40).

— Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood (OJ No L 359, 19. 12. 1986, p. 56).

— Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (OJ No L 348, 28. 11. 1992, p. 1).

<sup>(4)</sup> — Council Decision 95/593/EC of 22 December 1995 on a medium-term Community action programme on equal opportunities for men and women (1996-2000) (OJ No L 335, 30. 12. 1995, p. 37).

<sup>(5)</sup> — Council recommendation 84/635/EEC of 13 December 1984 on the promotion of positive action for women (OJ No L 331, 19. 12. 1984, p. 34).

— Council recommendation 92/241/EEC of 31 March 1992 on child care (OJ No L 123, 8. 5. 1992, p. 16).

<sup>(6)</sup> — Council resolution of 12 July 1982 on the promotion of equal opportunities for women (OJ No C 186, 21. 7. 1982, p. 3).

— Council resolution of 7 June 1984 on action to combat unemployment amongst women (OJ No C 161, 21. 6. 1984, p. 4).

— Resolution of the Council and the Ministers for Education, meeting within the Council, of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education (OJ No C 166, 5. 7. 1985, p. 1).

— Second Council resolution of 24 July 1986 on the promotion of equal opportunities for women (OJ No C 203, 12. 8. 1986, p. 2).

— Council resolution of 16 December 1988 on the reintegration and late integration of women into working life (OJ No C 333, 28. 12. 1988, p. 1).

— Council resolution of 29 May 1990 on the protection of the dignity of women and men at work (OJ No C 157, 27. 6. 1990, p. 3).

— Council resolution of 21 May 1991 on the third medium-term Community action programme on equal opportunities for women and men (1991-1995) (OJ No C 142, 31. 5. 1991, p. 1).

— Council resolution of 22 June 1994 on the promotion of equal opportunities for women and men through action by the European Structural Funds (OJ No C 231, 20. 8. 1994, p. 1).

— Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 6 December 1994 on equal participation by women in an employment-intensive economic growth strategy within the European Union (OJ No C 368, 23. 12. 1994, p. 3).

— Council resolution of 27 March 1995 on the balanced participation of women and men in decision-making (OJ No C 168, 4. 7. 1995, p. 3).

— Resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 5 October 1995 on the image of women and men portrayed in advertising and the media (OJ No C 296, 10. 11. 1995, p. 15).

- (2) Whereas the Heads of State and Government, meeting within the European Council in Essen, Cannes and Madrid, stressed that the fight against unemployment and equal opportunities for women and men were paramount tasks of the European Union and its Member States;
- (3) Whereas attention was focused on women's access to decision-making in Council Recommendation 84/635/EEC of 13 December 1984 on the promotion of positive action for women<sup>(1)</sup>, in the second Council Resolution of 24 July 1986 on the promotion of equal opportunities for women<sup>(2)</sup>, in the Council Resolution of 21 May 1991 on the third medium-term Community action programme on equal opportunities for women and men (1991-1995)<sup>(3)</sup>, in the Council Resolution of 27 March 1995 on the balanced participation of women and men in decision-making<sup>(4)</sup> and in Council Decision 95/593/EC of 22 December 1995 on a medium-term Community action programme on equal opportunities for men and women (1996-2000)<sup>(5)</sup>;
- (4) Whereas the European Parliament in its Resolution of 11 February 1994 on women in decision-making bodies<sup>(6)</sup> asked the Commission to 'step up implementation of the equal opportunities policy set out in the third Community action programme, to combat individual obstacles which hinder women from taking part in decision-making' and to define 'measures and actions to promote greater participation of women in the decision-making process';
- (5) Whereas the Declaration and the Platform for Action of the Fourth World Conference on Women (Beijing, 4 to 15 September 1995) stressed the need to ensure that responsibilities, powers and rights are shared equally; whereas the Member States are committed to implementing the Platform for Action;
- (6) Whereas participation in the decision-making process depends on representation on decision-making bodies at all levels of political, economic, social and cultural life and requires, in particular, presence in posts of responsibility and decision-taking positions;
- (7) Whereas women are still under-represented in decision-making bodies, in the political, economic, social and cultural spheres;
- (8) Whereas the under-representation of women in decision-making bodies is partly a result of the delay in women attaining equal civic and civil rights, of obstacles to their gaining economic independence and of difficulties in reconciling their working and family life;
- (9) Whereas balanced participation of women and men in the decision-making process is a requirement for democracy;
- (10) Whereas the under-representation of women in decision-making posts constitutes a loss for society as a whole and may prevent the interests and needs of the entire population from being catered for in full;
- (11) Whereas measures aimed at bringing about a balanced participation of women and men in the decision-making process in all sectors should go together with the integration of the dimension of equality of opportunity for women and men in all policies and actions;
- (12) Whereas balanced participation of women and men in the decision-making process is likely to give rise to different ideas, values and behaviour which will result in more justice and equality in the world for both men and women;

<sup>(1)</sup> OJ No L 331, 19. 12. 1984, p. 34.

<sup>(2)</sup> OJ No C 203, 12. 8. 1986, p. 2.

<sup>(3)</sup> OJ No C 142, 31. 5. 1991, p. 1.

<sup>(4)</sup> OJ No C 168, 4. 7. 1995, p. 3.

<sup>(5)</sup> OJ No L 335, 30. 12. 1995, p. 37.

<sup>(6)</sup> OJ No C 61, 28. 2. 1994, p. 248.



- (13) Whereas the Member States, the social partners, political parties and organizations, non-governmental organizations and the media play a key role in creating a society where there is a gender balance in the exercise of responsibilities in the political, economic, social and cultural spheres;
- (14) Whereas it is appropriate to adopt guidelines to promote balanced participation of women and men in the decision-making process with the aim of bringing about equality of opportunity for women and men and whereas it is appropriate, within the framework of the medium-term Community action programme on equal opportunities for men and women (1996-2000), to make those guidelines more effective through the exchange of information on good practice;
- (15) Whereas the provisions of this Recommendation apply solely within the limits of Community competence; whereas equal treatment for male and female workers constitutes one of the objectives of the Community, insofar as the harmonization of living and working conditions while maintaining their improvement are, *inter alia*, to be furthered;
- (16) Whereas the Treaty does not confer, for the adoption of this Recommendation, any other powers than those referred to in Article 235,

I. RECOMMENDS THAT THE MEMBER STATES:

1. adopt a comprehensive, integrated strategy designed to promote balanced participation of women and men in the decision-making process and develop or introduce the appropriate measures to achieve this, such as, where necessary, legislative and/or regulatory measures and/or incentives;
2. (a) alert those involved in education and training at all levels, including those responsible for teaching materials, to the importance of:
  - a realistic and complete image of the roles and abilities of women and men in society, free of prejudice and discriminatory stereotypes,
  - a more balanced sharing of professional, domestic and social responsibilities between women and men, and
  - balanced participation of women and men in the decision-making process at all levels;
- (b) at all levels of education and training, encourage girls and women to take part and express themselves in education and training activities as actively and fully as boys and men, so as to prepare them for an active role in society, including political, economic, social and cultural life, and in particular in decision-making processes;
- (c) make public opinion aware of the importance of disseminating an image of women and men that neither reinforces nor consolidates discriminatory stereotyping of women's and men's responsibilities;
- (d) without encroaching on their autonomy, encourage and support efforts of associations and organizations in all areas of society to promote women's access to the decision-making process and balanced participation by women and men in decision-making bodies;
- (e) without prejudice to their autonomy, encourage and support the efforts of the social partners to promote balanced participation of women and men in their activities and highlight the social partners' responsibility for promoting and proposing women candidates for nomination to various assignments on public commissions and committees in the Member States and at Community level;
- (f) devise, launch and promote public campaigns to alert public opinion to the usefulness and advantages for society as a whole of balanced participation by women and men in decision-making;

3. (a) promote or improve the collection and publication of statistics to provide a clearer picture of how women and men are represented at all levels of the decision-making process in the political, economic, social and cultural spheres;
  - (b) support, develop and encourage quantitative and qualitative studies on the participation of women and men in the decision-making process, and especially:
    - on the legal, social or cultural obstacles impeding access to and participation in the decision-making process for persons of either sex,
    - on strategies for overcoming such obstacles, and
    - on the utility and advantages for society and for the operation of democracy of a better balance between the sexes in the decision-making process;
  - (c) promote, support and encourage initiatives creating examples of good practice in the various areas of the decision-making process and develop programmes for the dissemination and exchange of experience with a view to propagating activities;
4. (a) promote balanced participation by women and men at all levels in governmental bodies and committees;
  - (b) raise the awareness of those involved of the importance of taking initiatives to achieve balanced participation of women and men in public positions at all levels, paying particular attention to the promotion of a balanced composition in committees, commissions and working parties at national as well as Community level;
  - (c) provide for, implement or develop a coherent set of measures encouraging equal opportunities in the public sector and respecting the concept of balanced participation in the decision-making process, and ensure, when recruitment competitions take place, that women and men are, as far as possible, represented equally in the committees responsible for preparing competitions and in the selection boards;
  - (d) encourage the private sector to increase the presence of women at all levels of decision-making, notably by the adoption of, or within the framework of, equality plans and positive action programmes;

## II. CALLS ON THE INSTITUTIONS, SUBSIDIARY BODIES AND DECENTRALIZED BODIES OF THE EUROPEAN COMMUNITIES TO:

design a strategy for achieving balanced participation by women and men in the decision-making process in each institution, subsidiary body and decentralized body of the European Communities;

## III. CALLS ON THE COMMISSION TO:

1. encourage and organize, within the framework of Council Decision 95/593/EC of 22 December 1995 on a medium-term Community action programme on equal opportunities for men and women (1996-2000), systematic pooling of information and experience between Member States on good practice and the assessment of the impact of measures taken to achieve a better balance between women and men in the decision-making process;
2. to this end, and within that framework, step up its efforts to provide information, alert public opinion, encourage research and promote schemes aimed at achieving balanced participation by women and men in the decision-making process;

3. submit a report to the European Parliament, the Council and the Economic and Social Committee, for the first time three years after adoption of this Recommendation and thereafter annually, on its implementation, on the basis of the information provided by the Member States and the institutions, subsidiary bodies and decentralized bodies of the European Communities.

Done at Brussels, 2 December 1996.

*For the Council*

*The President*

E. FITZGERALD

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# COUNCIL RECOMMENDATION (92/241/EEC)

of 31 March 1992

on child care

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas the Community Charter of the Fundamental Social Rights of Workers, adopted in the Strasbourg European Council on 9 December 1989 by the Heads of State or Government of eleven Member States, lays down, in the third paragraph of point 16 in particular, that:

'Measures should also be developed to enable men and women to reconcile their occupational and family obligations';

Whereas the Commission action programme implementing the Community Charter provides for this Recommendation;

Whereas in its third medium-term action programme on equal opportunities for women and men (1991-95), the Commission identified the need for further action in this area;

Whereas in its communication on family policies, sent to the Council on 24 August 1989, the Commission emphasised the importance of intensifying work relating to child care;

Whereas child-care methods, parental leave and maternity leave form part of a whole which enables people to combine their family responsibilities and occupational ambitions;

Whereas the Member States should take and/or encourage initiatives, taking into account the responsibilities of national, regional and local authorities, management and labour, other relevant organisations and

private individuals, and/or in cooperation with the various parties concerned;

Whereas the reconciliation of occupational, family and upbringing responsibilities arising from the care of children has to be viewed in a wide perspective which also takes into account the particular interests and needs of children at different age levels, where it is important, in order to achieve this, to encourage an overall policy aimed at enabling such reconciliation to occur;

Whereas it is essential to promote the well-being of children and families, ensuring that their various needs are met and taking into account the fact that responsibilities arising from the care and upbringing of children continue up to and throughout the period of children's schooling, and especially when they are younger;

Whereas in all Member States the demand for child-care services at prices affordable to parents exceeds the existing supply;

Whereas inadequate provision of child-care services at prices affordable to parents and other initiatives to reconcile responsibility for the family and the upbringing of children with the employment, or with the education and training of parents in order to obtain employment constitutes a major barrier to women's access to and more effective participation in the labour market, on equal terms with men, the effective participation of women in all areas of society and the effective use of their talents, skills and abilities in the current demographic situation;

Whereas, moreover, in this area, disparities exist between Member States and between regions within Member States;

Whereas, furthermore, better child-care services could facilitate freedom of movement of workers and mobility on the European labour market;

Whereas child-care services may be public or private, individual or collective in form;

Whereas child care is a broad concept which may involve the provision of child-care services which answer the needs of children, the grant of special leave to parents and the development of a working environment structure and organisation which is adapted to the sharing between women and men of occupational, family and upbringing responsibilities arising from the care of children;

(1) OJ C 242, 17.9.1991, p. 3.

(2) OJ C 326, 16.12.1991, p. 279.

(3) OJ C 40, 17.2.1992, p. 88.

Whereas in certain Member States, owing to the low level of national income and the need to impose strict limits on growth in public expenditure, the role of the public authorities may be subject to particular constraints;

Whereas the standard clause included in the Community support frameworks for structural policy stipulates that the actions and measures taken within such a framework must conform with and, where appropriate, contribute to the implementation of Community policy and legislation relating to equality of opportunity between women and men, and that in particular, consideration must be given to training and infrastructure requirements which facilitate labour force participation by women with children;

Whereas, furthermore, in the NOW Community initiative (1991-93), financed by the Structural Funds, for the promotion of equal opportunities for women in the fields of employment and vocational training, additional child-care measures are provided for to assist women with children to have access to the labour market and to vocational training courses,

HEREBY RECOMMENDS AS FOLLOWS:

#### *Article 1*

##### **Objective**

It is recommended that Member States should take and/or progressively encourage initiatives to enable women and men to reconcile their occupational, family and upbringing responsibilities arising from the care of children.

#### *Article 2*

##### **Areas of initiatives**

For the purposes of Article 1, it is recommended that the Member States, taking into account the respective responsibilities of national, regional and local authorities, management and labour, other relevant organisations and private individuals, and/or in cooperation with national, regional or local authorities, management and labour, other relevant organisations and private individuals, should take and/or encourage initiatives in the following four areas:

1. The provision of children-care services while parents:
  - are working,
  - are following a course of education or training in order to obtain employmentor

— are seeking a job or a course of education or training in order to obtain employment.

For the purposes of this Recommendation, 'child-care services' means any type of child care, whether public or private, individual or collective.

2. Special leave for employed parents with responsibility for the care and upbringing of children.
3. The environment, structure and organisation of work, to make them responsive to the needs of workers with children.
4. The sharing of occupational, family and upbringing responsibilities arising from the care of children between women and men.

#### *Article 3*

##### **Child-care services**

As regards child-care services, it is recommended that the Member States, taking into account the respective responsibilities of national, regional and local authorities, management and labour, other relevant organisations and private individuals, and/or in cooperation with national, regional or local authorities, management and labour, other relevant organisations and private individuals, should take and/or encourage initiatives to:

1. enable parents who are working, following a course of education or training in order to obtain employment or are seeking employment or a course of education or training in order to obtain employment to have as much access as possible to local child-care services.

In this context, endeavours should in particular be made to ensure that:

- the services are offered at prices affordable to parents;
  - they combine reliable care from the point of view of health and safety with a general upbringing and a pedagogical approach;
  - the needs of parents and children are taken into account when access to services is determined;
  - the services are available in all areas and regions of Member States, both in urban areas and in rural areas;
  - the services are accessible to children with special needs, for example linguistic needs, and to children in single-parent families, and meet the needs of such children;
2. encourage flexibility and diversity of child-care services as part of a strategy to increase choice and

meet the different preferences, needs and circumstances of children and their parents, while preserving coherence between different services;

3. endeavour that the training, both initial and continuous, of workers in child-care services is appropriate to the importance and the social and educative value of their work;
4. encourage child-care services to work closely with local communities through regular contact and exchanges of information, so as to be responsive to parental needs and particular local circumstances;
5. encourage national, regional or local authorities, management and labour, other relevant organisations and private individuals, in accordance with their respective responsibilities, to make a financial contribution to the creation and/or operation of coherent child-care services which can be afforded by parents and which offer them a choice.

#### *Article 4*

##### **Special leave**

As regards special leave for employed parents with responsibility for the care and upbringing of children, it is recommended that Member States, taking into account the respective responsibilities of national, regional and local authorities, management and labour, other relevant organisations and private individuals, and/or in cooperation with national, regional or local authorities, management and labour, other relevant organisations and private individuals, should take and/or encourage initiatives, to take realistic account of women's increased participation in the labour force.

These initiatives should concern, for example, special leave enabling employed parents, both men and women, who so desire properly to discharge their occupational, family and upbringing responsibilities, with, *inter alia*, some flexibility as to how leave may be taken.

#### *Article 5*

##### **Environment, structure and organisation of work**

As regards the environment, structure and organisation of work, it is recommended that Member States, taking

into account the respective responsibilities of national, regional and local authorities, management and labour, other relevant organisations and private individuals, and/or in cooperation with national, regional or local authorities, management and labour, other relevant organisations and private individuals, should take and/or encourage initiatives to:

1. support action, in particular within the framework of collective agreements, to create an environment, structure and organisation of work which take into account the needs of all working parents with responsibility for the care and upbringing of children;
2. ensure that due recognition is given to persons engaged in child-care services as regards the way in which they work and the social value of their work;
3. promote action, especially in the public sector, which can serve as an example in developing initiatives in this area.

#### *Article 6*

##### **Sharing of responsibilities**

As regards responsibilities arising from the care and upbringing of children, it is recommended that Member States should promote and encourage, with due respect for freedom of the individual, increased participation by men, in order to achieve a more equal sharing of parental responsibilities between men and women and to enable women to have a more effective role in the labour market.

#### *Article 7*

##### **Commission report**

The Member States shall inform the Commission, within three years of the date of the adoption of this Recommendation, of the measures taken to give effect to it, in order to enable the Commission to draw up a report on its implementation.

Done at Brussels, 31 March 1992.

*For the Council*

*The President*

Vitor MARTINS

## COUNCIL RECOMMENDATION

of 13 December 1984

on the promotion of positive action for women

(84/635/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the draft recommendation submitted by the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas various action has been undertaken at Community level to promote equal opportunities for women; whereas, in particular the Council adopted, on the basis of Articles 100 and 235 of the Treaty, Directive 75/117/EEC <sup>(4)</sup>, 76/207/EEC <sup>(5)</sup> and 79/7/EEC <sup>(6)</sup> concerning equal treatment for men and women; whereas other legal instruments are being prepared;

Whereas Article 2 (4) of Council Directive 76/207/EEC provides that it shall be without prejudice to measures to promote equal opportunities for men and women, in particular by removing existing inequalities which affect women's opportunities in the areas referred to in Article 1 (1) thereof;

Whereas existing legal provisions on equal treatment, which are designed to afford rights to individuals, are inadequate for the elimination of all existing inequalities unless parallel action is taken by governments, both sides of industry and other bodies concerned, to counteract the prejudicial effects on women in employment which arise from social attitudes, behaviour and structures;

Whereas, by its resolution of 12 July 1982 on the promotion of equal opportunities for women <sup>(7)</sup>, the Council approved the general objectives of the new Community action programme on the promotion of equal opportunities for women (1982 to 1985), namely the stepping up of action to ensure observance of the principle of equal treatment and the promotion of

equal opportunities in practice by positive action (Part B of the programme), and expressed the will to implement appropriate measures to achieve these objectives;

Whereas, in a period of economic crisis, action taken should be not only continued but also intensified at national level and Community level with a view to promoting the achievement of equal opportunities in practice through the implementation of positive actions, more especially in the fields of equal pay and equal treatment as regards access to employment, vocational training and promotion and working conditions;

Whereas the European Parliament has underlined the importance of positive action,

HEREBY RECOMMENDS MEMBER STATES:

1. To adopt a positive action policy designed to eliminate existing inequalities affecting women in working life and to promote a better balance between the sexes in employment, comprising appropriate general and specific measures, within the framework of national policies and practices, while fully respecting the spheres of competence of the two sides of industry, in order:
  - (a) to eliminate or counteract the prejudicial effects on women in employment or seeking employment which arise from existing attitudes, behaviour and structures based on the idea of a traditional division of roles in society between men and women;
  - (b) to encourage the participation of women in various occupations in those sectors of working life where they are at present under-represented, particularly in the sectors of the future, and at higher levels of responsibility in order to achieve better use of all human resources.
2. To establish a framework containing appropriate provisions designed to promote and facilitate the introduction and extension of such measures.
3. To take, continue or promote positive action measures in the public and private sectors.

<sup>(1)</sup> OJ No C 143, 30. 5. 1984, p. 3.

<sup>(2)</sup> OJ No C 315, 26. 11. 1984, p. 81.

<sup>(3)</sup> Opinion delivered on 12 November 1984 (not yet published in the Official Journal).

<sup>(4)</sup> OJ No L 45, 19. 2. 1975, p. 19.

<sup>(5)</sup> OJ No L 39, 14. 2. 1976, p. 40.

<sup>(6)</sup> OJ No L 6, 10. 1. 1979, p. 24.

<sup>(7)</sup> OJ No C 186, 21. 7. 1982, p. 3.

4. To take steps to ensure that positive action includes as far as possible actions having a bearing on the following aspects :

- informing and increasing the awareness of both the general public and the working world of the need to promote equality of opportunity for working women,
- respect for the dignity of women at the workplace,
- qualitative and quantitative studies and analyses of the position of women on the labour market,
- diversification of vocational choice, and more relevant vocational skills, particularly through appropriate vocational training, including the implementation of supporting measures and suitable teaching methods,
- measures necessary to ensure that placement, guidance and counselling services have sufficient skilled personnel to provide a service based on the necessary expertise in the special problems of unemployed women,
- encouraging women candidates and the recruitment and promotion of women in sectors and professions and at levels where they are under-represented, particularly as regards positions of responsibility,
- adapting working conditions; adjusting the organization of work and working time,
- encouraging supporting measures such as those designed to foster greater sharing of occupational and social responsibilities,
- active participation by women in decision-making bodies, including those representing workers, employers and the self-employed.

5. To ensure that the actions and measures described in points 1 to 4 are made known to the public and to the working world, especially to potential beneficiaries, by all appropriate means and as extensively as possible.

6. To enable national equal opportunities committees and organizations to make a significant contribution to the promotion of such measures, which

presupposes that these committees and organizations are provided with appropriate means of action.

7. To encourage both sides of industry, wherever possible, to promote positive action within their own organizations and the work place, for example by suggesting guidelines, principles, codes of good conduct or good practice or any other appropriate formula for the implementation of such action.
8. To make efforts also in the public sector to promote equal opportunities which might serve as an example, particularly in those fields where new information technologies are being used or developed.
9. To make appropriate arrangements to gather information on measures taken by public and private bodies, and to follow up and evaluate such measures,

AND TO THIS END REQUESTS THE COMMISSION :

1. To promote and organize in liaison with the Member States the systematic exchange and assessment of information and experience on positive action within the Community.
2. To submit a report to the Council, within three years of the adoption of this recommendation, on progress achieved in its implementation, on the basis of information supplied to it by Member States.

Done at Brussels, 13 December 1984.

*For the Council*

*The President*

R. QUINN



## **II. Commission Recommendations**



## II

*(Acts whose publication is not obligatory)*

## COMMISSION

## COMMISSION RECOMMENDATION

of 27 November 1991

on the protection of the dignity of women and men at work

(92/131/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular the second indent of Article 155 thereof,

Whereas unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work, including the conduct of superiors and colleagues, is unacceptable and may, in certain circumstances, be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions<sup>(1)</sup>, a view supported by case-law in some Member States;

Whereas, in accordance with the Council recommendation of 13 December 1984 on the promotion of positive action for women<sup>(2)</sup>, many Member States have carried out a variety of positive action measures and actions having a bearing, *inter alia*, on respect for the dignity of women at the workplace;

Whereas the European Parliament, in its resolution of 11 June 1986 on violence against women<sup>(3)</sup>, has called upon national governments, equal opportunities committees and trade unions to carry out concerted

information campaigns to create a proper awareness of the individual rights of all members of the labour force;

Whereas the Advisory Committee on Equal Opportunities for Women and Men, in its opinion of 20 June 1988, has unanimously recommended that there should be a recommendation and code of conduct on sexual harassment in the workplace covering harassment of both sexes;

Whereas the Commission in its action programme relating to the implementation of the Community Charter of Basic Social Rights for Workers undertook to examine the protection of workers and their dignity at work, having regard to the reports and recommendations prepared on various aspects of implementation of Community law<sup>(4)</sup>;

Whereas the Council, in its resolution of 29 May 1990 on the protection of the dignity of women and men at work<sup>(5)</sup>, affirms that conduct based on sex affecting the dignity of women and men at work, including conduct of superiors and colleagues, constitutes an intolerable violation of the dignity of workers or trainees, and calls on the Member States and the institutions and organs of the European Communities to develop positive measures designed to create a climate at work in which women and men respect one another's human integrity;

<sup>(1)</sup> OJ No L 39, 14. 2. 1976, p. 40.

<sup>(2)</sup> OJ No L 331, 19. 12. 1984, p. 34.

<sup>(3)</sup> OJ No C 176, 14. 7. 1986, p. 79.

<sup>(4)</sup> COM(89) 568 final, 29. 11. 1989. For example, 'The dignity of women at work: A report on the problem of sexual harassment in the Member States of the European Communities', October 1987, by Michael Rubenstein (ISBN 92-825-8764-9).

<sup>(5)</sup> OJ No C 157, 27. 6. 1990, p. 3.

Whereas the Commission, in its third action programme on equal opportunities for women and men, 1991 to 1995, and pursuant to paragraph 3 (2) of the said Council resolution of 29 May 1990, resolved to draw up a code of conduct on the protection of the dignity of women and men at work <sup>(1)</sup>, based on experience and best practice in the Member States, to provide guidance on initiating and pursuing positive measures designed to create a climate at work in which women and men respect one another's human integrity;

Whereas the European Parliament, on 22 October 1991, adopted a resolution on the protection of the dignity of women and men at work <sup>(2)</sup>;

Whereas the Economic and Social Committee, on 30 October 1991, adopted an opinion on the protection of the dignity of women and men at work <sup>(3)</sup>,

RECOMMENDS AS FOLLOWS:

*Article 1*

It is recommended that the Member States take action to promote awareness that conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work, including conduct of superiors and colleagues, is unacceptable if:

- (a) such conduct is unwanted, unreasonable and offensive to the recipient;
- (b) a person's rejection of, or submission to, such conduct on the part of employers or workers (including superiors or colleagues) is used explicitly or implicitly as a basis for a decision which affects that person's access to vocational training, access to employment, continued employment, promotion, salary or any other employment decisions;

and/or

- (c) such conduct creates an intimidating, hostile or humiliating work environment for the recipient;

and that such conduct may, in certain circumstances, be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Directive 76/207/EEC.

*Article 2*

It is recommended that Member States take action, in the public sector, to implement the Commission's code of practice on the protection of the dignity of women and men at work, annexed hereto. The action of the Member States, in thus initiating and pursuing positive measures designed to create a climate at work in which women and men respect one another's human integrity, should serve as an example to the private sector.

*Article 3*

It is recommended that Member States encourage employers and employee representatives to develop measures to implement the Commission's code of practice on the protection of the dignity of women and men at work.

*Article 4*

Member States shall inform the Commission within three years of the date of this recommendation of the measures taken to give effect to it, in order to allow the Commission to draw up a report on all such measures. The Commission shall, within this period, ensure the widest possible circulation of the code of practice. The report should examine the degree of awareness of the Code, its perceived effectiveness, its degree of application and the extent of its use in collective bargaining between the social partners.

*Article 5*

This recommendation is addressed to the Member States.

Done at Brussels, 27 November 1991.

*For the Commission*

VASSO PAPANDEOU

*Member of the Commission*

<sup>(1)</sup> COM(90) 449 final, 6. 11. 1990.

<sup>(2)</sup> OJ No C 305, 25. 11. 1991.

<sup>(3)</sup> OJ No C 14, 20. 1. 1992.

## ANNEX

## PROTECTING THE DIGNITY OF WOMEN AND MEN AT WORK

## A code of practice on measures to combat sexual harassment

## 1. INTRODUCTION

This code of practice is issued in accordance with the resolution of the Council of Ministers on the protection of the dignity of women and men at work<sup>(1)</sup>, and to accompany the Commission's recommendation on this issue.

Its purpose is to give practical guidance to employers, trade unions, and employees on the protection of the dignity of women and men at work. The code is intended to be applicable in both the public and the private sector and employers are encouraged to follow the recommendations contained in the code in a way which is appropriate to the size and structure of their organization. It may be particularly relevant for small and medium-sized enterprises to adapt some of the practical steps to their specific needs.

The aim is to ensure that sexual harassment does not occur and, if it does occur, to ensure that adequate procedures are readily available to deal with the problem and prevent its recurrence. The code thus seeks to encourage the development and implementation of policies and practices which establish working environments free of sexual harassment and in which women and men respect one another's human integrity.

The expert report carried out on behalf of the Commission found that sexual harassment is a serious problem for many working women in the European Community<sup>(2)</sup> and research in Member States has proven beyond doubt that sexual harassment at work is not an isolated phenomenon. On the contrary, it is clear that for millions of women in the European Community, sexual harassment is an unpleasant and unavoidable part of their working lives. Men too may suffer sexual harassment and should, of course, have the same rights as women to the protection of their dignity.

<sup>(1)</sup> OJ No C 157, 27. 6. 1990, p. 3.

<sup>(2)</sup> 'The dignity of women at work: A report on the problem of sexual harassment in the Member States of the European Communities', October 1987, by Michael Rubenstein (ISBN 92-825-8764-9).

Some specific groups are particularly vulnerable to sexual harassment. Research in several Member States, which documents the link between the risk of sexual harassment and the recipient's perceived vulnerability, suggests that divorced and separated women, young women and new entrants to the labour market and those with irregular or precarious employment contracts, women in non-traditional jobs, women with disabilities, lesbians and women from racial minorities are disproportionately at risk. Gay men and young men are also vulnerable to harassment. It is undeniable that harassment on grounds of sexual orientation undermines the dignity at work of those affected and it is impossible to regard such harassment as appropriate workplace behaviour.

Sexual harassment pollutes the working environment and can have a devastating effect upon the health, confidence, morale and performance of those affected by it. The anxiety and stress produced by sexual harassment commonly leads to those subjected to it taking time off work due to sickness, being less efficient at work, or leaving their job to seek work elsewhere. Employees often suffer the adverse consequences of the harassment itself and short- and long-term damage to their employment prospects if they are forced to change jobs. Sexual harassment may also have a damaging impact on employees not themselves the object of unwanted behaviour but who are witness to it or have a knowledge of the unwanted behaviour.

There are also adverse consequences arising from sexual harassment for employers. It has a direct impact on the profitability of the enterprise where staff take sick leave or resign their posts because of sexual harassment, and on the economic efficiency of the enterprise where employees' productivity is reduced by having to work in a climate in which individuals' integrity is not respected.

In general terms, sexual harassment is an obstacle to the proper integration of women into the labour market and the Commission is committed to encouraging the development of comprehensive measures to improve such integration<sup>(3)</sup>.

<sup>(3)</sup> Third action programme on equal opportunities for women and men, 1991 to 1995, COM(90) 449, 6. 11. 1990.

## 2. DEFINITION

Sexual harassment means unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work <sup>(1)</sup>. This can include unwelcome physical, verbal or non-verbal conduct.

Thus, a range of behaviour may be considered to constitute sexual harassment. It is unacceptable if such conduct is unwanted, unreasonable and offensive to the recipient; a person's rejection of or submission to such conduct on the part of employers or workers (including superiors or colleagues) is used explicitly or implicitly as a basis for a decision which affects that person's access to vocational training or to employment, continued employment, promotion, salary or any other employment decisions; and/or such conduct creates an intimidating, hostile or humiliating working environment for the recipient <sup>(1)</sup>.

The essential characteristic of sexual harassment is that it is unwanted by the recipient, that it is for each individual to determine what behaviour is acceptable to them and what they regard as offensive. Sexual attention becomes sexual harassment if it is persisted in once it has been made clear that it is regarded by the recipient as offensive, although one incident of harassment may constitute sexual harassment if sufficiently serious. It is the unwanted nature of the conduct which distinguishes sexual harassment from friendly behaviour, which is welcome and mutual.

## 3. THE LAW AND EMPLOYERS' RESPONSIBILITIES

Conduct of a sexual nature or other based on sex affecting the dignity of women and men at work may be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women

<sup>(1)</sup> Council resolution on the protection of the dignity of women and men at work (OJ No C 157, 27. 6. 1990, p. 3, point 1).

as regards access to employment, vocational training and promotion, and working conditions <sup>(2)</sup>. This principle means that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.

In certain circumstances, and depending upon national law, sexual harassment may also be a criminal offence or may contravene other obligations imposed by the law, such as health and safety duties, or a duty, contractual or otherwise, to be a good employer. Since sexual harassment is a form of employee misconduct, employers have a responsibility to deal with it as they do with any other form of employee misconduct as well as to refrain from harassing employees themselves. Since sexual harassment is a risk to health and safety, employers have a responsibility to take steps to minimize the risk as they do with other hazards. Since sexual harassment often entails an abuse of power, employers may have a responsibility for the misuse of the authority they delegate.

This code, however, focuses on sexual harassment as a problem of sex discrimination. Sexual harassment is sex discrimination because the gender of the recipient is the determining factor in who is harassed. Conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work in some Member States already has been found to contravene national equal treatment laws and employers have a responsibility to seek to ensure that the work environment is free from such conduct <sup>(2)</sup>.

As sexual harassment is often a function of women's status in the employment hierarchy, policies to deal with sexual harassment are likely to be most effective where they are linked to a broader policy to promote equal

<sup>(1)</sup> OJ No L 39, 14. 2. 1976, p. 40.

<sup>(2)</sup> Council resolution on the protection of the dignity of women and men at work (OJ No C 157, 27. 6. 1990, p. 3, point 2 (3) (a)).

opportunities and to improve the position of women. Advice on steps which can be taken generally to implement an equal opportunities policy is set out in the Commission's guide to positive action<sup>(1)</sup>.

Similarly, a procedure to deal with complaints of sexual harassment should be regarded as only one component of a strategy to deal with the problem. The prime objective should be to change behaviour and attitudes, to seek to ensure the prevention of sexual harassment.

#### 4. COLLECTIVE BARGAINING

The majority of the recommendations contained in this code are for action by employers, since employers have clear responsibilities to ensure the protection of the dignity of women and men at work.

Trade unions also have responsibilities to their members and they can and should play an important role in the prevention of sexual harassment in the workplace. It is recommended that the question of including appropriate clauses in agreements be examined in the context of the collective bargaining process, with the aim of achieving a work environment free from unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work and free from victimization of a complainant or of a person wishing to give, or giving, evidence in the event of a complaint.

#### 5. RECOMMENDATIONS TO EMPLOYERS

The policies and procedures recommended below should be adopted, where appropriate, after consultation or negotiation with trade unions or employee representatives. Experience suggests that strategies to create and maintain a working environment in which the dignity of employees is respected are most likely to be effective where they are jointly agreed.

It should be emphasized that a distinguishing characteristic of sexual harassment is that employees subjected to it often will be reluctant to complain. An absence of complaints about sexual harassment in a particular organization, therefore, does not necessarily mean an absence of sexual harassment. It may mean that the recipients of sexual harassment think that there is no

point in complaining because nothing will be done about it, or because it will be trivialized or the complainant subjected to ridicule, or because they fear reprisals. Implementing the preventative and procedural recommendations outlined below should facilitate the creation of a climate at work in which such concerns have no place.

#### A. Prevention

##### (i) *Policy statements*

As a first step in showing senior management's concern and their commitment to dealing with the problem of sexual harassment, employers should issue a policy statement which expressly states that all employees have a right to be treated with dignity, that sexual harassment at work will not be permitted or condoned and that employees have a right to complain about it should it occur.

It is recommended that the policy statement make clear what is considered inappropriate behaviour at work, and explain that such behaviour, in certain circumstances, may be unlawful. It is advisable for the statement to set out a positive duty on managers and supervisors to implement the policy and to take corrective action to ensure compliance with it. It should also place a positive duty on all employees to comply with the policy and to ensure that their colleagues are treated with respect and dignity.

In addition, it is recommended that the statement explain the procedure which should be followed by employees subjected to sexual harassment at work in order to obtain assistance and to whom they should complain; that it contain an undertaking that allegations of sexual harassment will be dealt with seriously, expeditiously and confidentially, and that employees will be protected against victimization or retaliation for bringing a complaint of sexual harassment. It should also specify that appropriate disciplinary measures will be taken against employees found guilty of sexual harassment.

##### (ii) *Communicating the policy*

Once the policy has been developed, it is important to ensure that it is communicated effectively to all employees, so that they are aware that they have a right to complain and to whom they should complain; that their complaint will be dealt with promptly and fairly; and that employees are made aware of the likely

<sup>(1)</sup> Positive action: Equal opportunities for women in employment — a guide, Office for Official Publications of the European Communities, 1988.

consequences of engaging in sexual harassment. Such communication will highlight management's commitment to eliminating sexual harassment, thus enhancing a climate in which it will not occur.

### (iii) *Responsibility*

All employees have a responsibility to help to ensure a working environment in which the dignity of employees is respected and managers (including supervisors) have a particular duty to ensure that sexual harassment does not occur in work areas for which they are responsible. It is recommended that managers explain the organization's policy to their staff and take steps to positively promote the policy. Managers should also be responsive and supportive to any member of staff who complains about sexual harassment, provide full and clear advice on the procedure to be adopted, maintain confidentiality in any cases of sexual harassment and ensure that there is no further problem of sexual harassment or any victimization after a complaint has been resolved.

### (iv) *Training*

An important means of ensuring that sexual harassment does not occur and that, if it does occur, the problem is resolved efficiently is through the provision of training for managers and supervisors. Such training should aim to identify the factors which contribute to a working environment free of sexual harassment and to familiarize participants with their responsibilities under the employer's policy and any problems they are likely to encounter.

In addition, those playing an official role in any formal complaints procedure in respect of sexual harassment should receive specialist training, such as that outlined above.

It is also good practice to include information as to the organization's policy on sexual harassment and procedures for dealing with it as part of appropriate induction and training programmes.

## B. Procedures

The development of clear and precise procedures to deal with sexual harassment once it has occurred is of great importance. The procedures should ensure the resolution of problems in an efficient and effective manner. Practical guidance for employees on how to deal with sexual harassment when it occurs and with its aftermath will make it more likely that it will be dealt with at an early stage. Such guidance should of course draw

attention to an employee's legal rights and to any time limits within which they must be exercised.

### (i) *Resolving problems informally*

Most recipients of harassment simply want the harassment to stop. Both informal and formal methods of resolving problems should be available.

Employees should be advised that, if possible, they should attempt to resolve the problem informally in the first instance. In some cases, it may be possible and sufficient for the employee to explain clearly to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work.

In circumstances where it is too difficult or embarrassing for an individual to do this on their own behalf, an alternative approach would be to seek support from, or for an initial approach to be made by, a sympathetic friend or confidential counsellor.

If the conduct continues or if it is not appropriate to resolve the problem informally, it should be raised through the formal complaints procedure.

### (ii) *Advice and assistance*

It is recommended that employers designate someone to provide advice and assistance to employees subjected to sexual harassment, where possible with responsibilities to assist in the resolution of any problems, whether through informal or formal means. It may be helpful if the officer is designated with the agreement of the trade unions or employees, as this is likely to enhance their acceptability. Such officers could be selected from personnel departments or equal opportunities departments for example. In some organizations they are designated as 'confidential counsellors' or 'sympathetic friends'. Often such a role may be played by someone from the employee's trade union or women's support groups.

Whatever the location of this responsibility in the organization, it is recommended that the designated officer receives appropriate training in the best means of resolving problems and in the detail of the organization's policy and procedures, so that they can perform their role effectively. It is also important that they are given adequate resources to carry out their function, and protection against victimization for assisting any recipient of sexual harassment.



*(iii) Complaints procedure*

It is recommended that, where the complainant regards attempts at informal resolution as inappropriate, where informal attempts at resolution have been refused, or where the outcome has been unsatisfactory, a formal procedure for resolving the complaint be provided. The procedure should give employees confidence that the organization will take allegations of sexual harassment seriously.

By its nature sexual harassment may make the normal channels of complaint difficult to use because of embarrassment, fears of not being taken seriously, fears of damage to reputation, fears of reprisal or the prospect of damaging the working environment. Therefore, a formal procedure should specify to whom the employee should bring a complaint, and it should also provide an alternative if in the particular circumstances the normal grievance procedure may not be suitable, for example because the alleged harasser is the employee's line manager. It is also advisable to make provision for employees to bring a complaint in the first instance to someone of their own sex, should they so choose.

It is good practice for employers to monitor and review complaints of sexual harassment and how they have been resolved, in order to ensure that their procedures are working effectively.

*(iv) Investigations*

It is important to ensure that internal investigations of any complaints are handled with sensitivity and with due respect for the rights of both the complainant and the alleged harasser. The investigation should be seen to be independent and objective. Those carrying out the investigation should not be connected with the allegation in any way, and every effort should be made to resolve complaints speedily — grievances should be handled promptly and the procedure should set a time limit within which complaints will be processed, with due regard for any time limits set by national legislation for initiating a complaint through the legal system.

It is recommended as good practice that both the complainant and the alleged harasser have the right to be accompanied and/or represented, perhaps by a representative of their trade union or a friend or colleague; that the alleged harasser be given full details of the nature of the complaint and the opportunity to respond, and that strict confidentiality be maintained throughout any investigation into an allegation. Where it is necessary to interview witnesses, the importance of confidentiality should be emphasized.

It must be recognized that recounting the experience of sexual harassment is difficult and can damage the employee's dignity. Therefore, a complainant should not be required repeatedly to recount the events complained of where this is unnecessary.

The investigation should focus on the facts of the complaint and it is advisable for the employer to keep a complete record of all meetings and investigations.

*(v) Disciplinary offence*

It is recommended that violations of the organization's policy protecting the dignity of employees at work should be treated as a disciplinary offence and the disciplinary rules should make clear what is regarded as inappropriate behaviour at work. It is also good practice to ensure that the range of penalties to which offenders will be liable for violating the rule is clearly stated and also to make it clear that it will be considered a disciplinary offence to victimize or retaliate against an employee for bringing a complaint of sexual harassment in good faith.

Where a complaint is upheld and it is determined that it is necessary to relocate or transfer one party, consideration should be given, wherever practicable, to allowing the complainant to choose whether he or she wishes to remain in their post or be transferred to another location. No element of penalty should be seen to attach to a complainant whose complaint is upheld and in addition, where a complaint is upheld, the employer should monitor the situation to ensure that the harassment has stopped.

Even where a complaint is not upheld, for example because the evidence is regarded as inconclusive, consideration should be given to transferring or re-scheduling the work of one of the employees concerned rather than requiring them to continue to work together against the wishes of either party.

**6. RECOMMENDATIONS TO TRADE UNIONS**

Sexual harassment is a trade union issue as well as an issue for employers. It is recommended as good practice that trade unions formulate and issue clear policy statements on sexual harassment and take steps to raise awareness of the problem of sexual harassment in the workplace, in order to help create a climate in which it is

neither condoned or ignored. For example, trade unions could aim to give all officers and representatives training on equality issues, including dealing with sexual harassment, and include such information in union-sponsored or approved training courses, as well as information on the union's policy. Trade unions should consider declaring that sexual harassment is inappropriate behaviour and educating members and officials about its consequences is recommended as good practice.

Trade unions should also raise the issue of sexual harassment with employers and encourage the adoption of adequate policies and procedures to protect the dignity of women and men at work in the organization. It is advisable for trade unions to inform members of their right not to be sexually harassed at work and provide members with clear guidance as to what to do if they are sexually harassed, including guidance on any relevant legal rights.

Where complaints arise, it is important for trade unions to treat them seriously and sympathetically and ensure that the complainant has an opportunity of representation if a complaint is to be pursued. It is important to create an environment in which members feel able to raise such complaints knowing they will receive a sympathetic and supportive response from local union representatives. Trade unions could consider designating specially trained officials to advise and counsel members with complaints of sexual harassment and act on their behalf if required. This will provide a focal point for support. It is also a good idea to ensure that there are sufficient female representatives to support women subjected to sexual harassment.

It is recommended too, where the trade union is representing both the complainant and the alleged harasser for the purpose of the complaints procedure, that it be made clear that the union is not condoning offensive

behaviour by providing representation. In any event, the same official should not represent both parties.

It is good practice to advise members that keeping a record of incidents by the harassed worker will assist in bringing any formal or informal action to a more effective conclusion, that the union wishes to be informed of any incident of sexual harassment and that such information will be kept confidential. It is also good practice for the union to monitor and review the union's record in responding to complaints and in representing alleged harassers and the harassed, in order to ensure its responses are effective.

## 7. EMPLOYEES' RESPONSIBILITIES

Employees have a clear role to play in helping to create a climate at work in which sexual harassment is unacceptable. They can contribute to preventing sexual harassment through an awareness and sensitivity towards the issue and by ensuring that standards of conduct for themselves and for colleagues do not cause offence.

Employees can do much to discourage sexual harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffer such treatment and are considering making a complaint.

Employees who are themselves recipients of harassment should, where practicable, tell the harasser that the behaviour is unwanted and unacceptable. Once the offender understands clearly that the behaviour is unwelcome, this may be enough to put an end to it. If the behaviour is persisted in, employees should inform management and/or their employee representative through the appropriate channels and request assistance in stopping the harassment, whether through informal or formal means.

## COMMISSION RECOMMENDATION

of 24 November 1987

on vocational training for women

(87/567/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and the second indent of Article 155 thereof,

Whereas Article 4 of Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions<sup>(1)</sup> lays down that the Member States shall ensure application of the principle of equal treatment with regard to access to all types and to all levels of vocational training and retraining;

Whereas the Commission communication to the Council transmitted on 20 December 1985, on 'Equal Opportunities for Women — Medium-Term Community Programme 1986 to 1990', included education and training as one of the seven fields of action defined therein and stated that the Commission will propose Community guidelines on vocational training for women;

Whereas the Second Council Resolution of 24 July 1986 on the promotion of equal opportunities for women<sup>(2)</sup> supported the broad outlines of the Commission communication referred to above and supported the programme's objectives of realizing in practice equal opportunities in economic, social and cultural life;

Whereas the Second Council Resolution also called on Member States to take appropriate action on the basis of, *inter alia*, the Commission communication;

Whereas Council Decision 86/365/EEC of 24 July 1986 adopting the programme on cooperation between universities and enterprises regarding training in the field of technology (COMETT)<sup>(3)</sup>, Council Decision 87/327/EEC of 15 June 1987 adopting the European Action Scheme for the Mobility of University Students (ERASMUS)<sup>(4)</sup>, the Resolution of the Council and the Ministers for Education meeting within the Council of 12 July 1982 concerning measures to be taken to improve the preparation of young people for work and to facilitate their transition from education to working life<sup>(5)</sup>, the Resolution of the Council and the Ministers for Education meeting within the Council of 3 June 1985, containing an action

programme an equal opportunities for girls and boys in education<sup>(6)</sup>, the proposals for a Council decision adopting an action programme for the training and preparation of young people for adult and working life<sup>(7)</sup>, and the Commission Communication on adult training in firms<sup>(8)</sup>, have all underlined the importance to be attached to equal opportunities;

Whereas the European Parliament has on several occasions emphasized the need for a comprehensive large-scale policy in the area of equal opportunities for women and has urged the promotion of adequate vocational training for women;

Whereas the need for well-targeted vocational training measures has been heightened by the fact that the structural crisis on the labour market and the introduction of the new technologies have seriously affected women's employment prospects and whereas the demographic trend and the economic and social changes call for the skills of all workers to be more closely attuned to requirements;

Whereas this situation has led to the development in the Member States of various initiatives designed to promote more appropriate skills for women but whereas the measures involved have often remained limited; whereas certain measures have also been undertaken at Community level and whereas the European Social Fund contributes to the financing of vocational training operations;

Whereas it is therefore important to establish Community guidelines for carrying out a number of specific comprehensive actions in a variety of fields in order to develop appropriate vocational training for women,

RECOMMENDS AS FOLLOWS:

*Article 1*

It is recommended that the Member States should adopt a policy designed to encourage the participation of young and adult women in training schemes, especially those relevant to occupations of the future, and should develop specific measures, particularly as regards training, for occupations where women are under-represented.

(1) OJ No L 39, 14. 1. 1976, p. 40.

(2) OJ No C 203, 24. 7. 1986, p. 2.

(3) OJ No L 222, 8. 8. 1986, p. 17.

(4) OJ No L 166, 25. 6. 1987, p. 20.

(5) OJ No C 193, 28. 7. 1982, p. 1.

(6) OJ No C 166, 5. 7. 1985, p. 1.

(7) COM(87) 90 final.

(8) COM(86) 780.

*Article 2*

It is recommended that the Member States should introduce, continue or encourage active measures designed to :

- (a) integrate training for women within a broader process of cooperation between all the parties concerned : the education authorities and organizations, school and vocational guidance, the two sides of industry, the training organizations, the lenders of capital, the central and/or regional and/or local authorities, equal opportunities organizations, undertakings, women's groups or associations ;
- (b) staff the guidance, training and placement services with persons qualified to deal with the specific problems of women (e.g. equal opportunities counsellors) and to take measures to increase the awareness of instructors ;
- (c) reorganize the school, university and vocational guidance services in such a way that they seek out rather than wait to be approached by the people concerned ;
- (d) encourage the participation of women and girls in training courses by providing more decentralized and more widely distributed education and training facilities ;
- (e) develop awareness and information measures so as to offer women and those around them images of women engaged in non-traditional activities, particularly those related to occupations of the future ;
- (f) encourage the participation of girls in higher education, particularly in technical and technological fields, by :
- making provision within the grants system for ways of compensating for the double sexual and social handicap borne by girls from underprivileged backgrounds,
  - adopting measures enabling girls to benefit on an equal footing from the programmes set up in the context of the links to be developed between universities and industry (in particular the COMETT programme) and from inter-university agreements promoting the mobility of students (particularly the ERASMUS programme),
  - making efforts to steer girls towards key areas of new technology ;
- (g) encourage greater participation by girls in the various initial vocational training systems outside the education system, especially apprenticeships, other than those teaching certain 'female' occupations and adapt or, where appropriate, abolish types of training for women which do not provide real occupational skills or lead girls into overcrowded occupations ;
- (h) encourage girls and women to set up their own businesses or cooperatives by introducing special training and further training schemes particularly designed to provide :
- training in financial management,
  - information on access to back-up and financial facilities ;
- (i) develop measures designed to promote the participation of women in continuous training entailing :
- campaigns to provide information and promote awareness of the potential offered by such training,
  - measures to encourage women to follow such training courses, for example by adapting the conditions of training courses (e.g. timetables, duration and forms of training) to the specific problems of women and, where appropriate, by setting target figures, to be reviewed, particularly for sectors and occupations where women are under represented ;
- (j) provide specific courses for certain categories of women, particularly underprivileged women and women returning to work after an interruption, particularly in the confidence-building, awareness or pre-training phases ;
- (k) open up all types of training (particularly those intended for unemployed people) to women wishing to return to work and encourage the two sides of industry to develop 'reintegration' projects providing training likely to enable the persons in question to re-enter the firm at the level at which they left ;
- (l) enable the spouses of self-employed workers who help with that self-employed activity to take advantage of training opportunities on the same terms as self-employed workers ;
- (m) introduce support measures such as the provision of flexible childminding arrangements and the establishment of the appropriate social infrastructures so as to enable mothers to take part in training schemes, the introduction of financial incentives or the payment of allowances during training ;
- (n) recognize skills acquired in running a household and looking after a family (exemption for certain course elements, etc) ;

- (o) monitor the progress of women having taken part in training schemes, particularly in occupations where women are underrepresented.

*Article 3*

The Member States shall inform the Commission within three years of the date of this Recommendation of the measures taken to give effect to it, in order to allow the Commission to draw up a report on all such measures.

*Article 4*

This Recommendation is addressed to the Member States.

Done at Brussels, 24 November 1987.

*For the Commission*

Manuel MARÍN

*Vice-President*



## **III. Council Resolutions**





## COUNCIL RESOLUTION

of 27 November 2003

### on equal access to and participation of women and men in the knowledge society for growth and innovation

(2003/C 317/03)

THE COUNCIL OF THE EUROPEAN UNION

#### 1. RECALLING:

that one of the objectives of the European Union is to eliminate inequalities and to promote equality between men and women in all its activities;

the Lisbon Strategy, which drew attention to the importance of equipping all citizens with the skills needed to live and work in the knowledge-based society, and to the need to raise the present employment rate of women;

the European Councils in Brussels (March 2003), Seville, Barcelona and Nice, which in turn:

— WELCOMED the strengthening of the implementation, coordination and follow-up of gender equality and gender mainstreaming in the European Union and requested that employment guidelines should address *inter alia* entrepreneurship and gender equality;

— ENDORSED the objectives of the Commission's Action Plan for eEurope 2005 — an information society for all, thereby addressing the need to provide the workforce with the key skills required for the knowledge-based society;

— CALLED UPON the Council to ensure that all citizens are well equipped with basic qualifications, especially those

linked with ICTs and in particular groups such as unemployed women; and

— UNDERLINED that the European Social model includes the fight against all forms of discrimination, that gender equality at work must underpin the transformation to the knowledge-based economy and that more and better jobs are the key to social inclusion;

the Council Resolution of June 2001 on Science and Society and on Women in Science <sup>(1)</sup>, which invited the Commission to continue and intensify its effort to promote the role of women in science and technology, and in particular within the sixth framework programme;

the Council Conclusions of March 2003 on the Promotion of Entrepreneurship and small firms <sup>(2)</sup>, which stressed the need to encourage women entrepreneurs in order to create more new innovative and competitive firms;

the Council Conclusions of May 2003 on Adapting e-Business Policies in a Changing Environment <sup>(3)</sup>, which underlined the need to narrow and close e-skills gaps and the need for inclusiveness of the entire available potential labour pool addressing in particular the severe under-representation of women in the ICT workforce;

<sup>(1)</sup> OJ C 199, 14.7.2001, p. 1.

<sup>(2)</sup> OJ C 64, 18.3.2003, p. 6-8.

<sup>(3)</sup> OJ C 149, 26.6.2003, p. 7-9 and Doc. 9857/03.

the Council Resolution of July 2003 on Social and Human Capital <sup>(1)</sup>, which stressed the need to address the current gender gap in access to ICT-related education, jobs and the use of ICT, and to encourage more women to pursue higher-education studies in subjects related to the information society;

the conclusions of 14th March 2003 of the UN Commission on the Status of Women which noted that a focus on the gender dimensions of ICTs is essential for preventing an adverse impact of the digital revolution on gender equality.

## 2. RECOGNISING:

the important role that gender equality can play in the context of the Lisbon strategy for contributing to the European Union becoming the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion and the key role that the social partners and NGOs can play in reducing gender inequalities and the digital divide.

## 3. UNDERLINING:

the need to foster equal participation of men and women in the knowledge society paying particular attention to:

- skills for the knowledge society;
- employment, research, innovation and entrepreneurship;
- social and regional inclusion.

## 4. INVITES Member States:

in general to:

- enhance the possibilities for achieving gender equality and for the economic, political and social empowerment of women in the context of a more widespread use of ICTs including infrastructures and, while recognising that women are large consumers and users of ICTs and multimedia, to further promote their participation in and influence on all levels of production, research and innovation;
- integrate gender perspectives in national policy making concerning the ICT sector, *inter alia* in the design and

implementation of e-Government initiatives, and to ensure early and full participation of women therein, and, in this context, to take into account the needs of vulnerable groups;

in the area of skills for the knowledge society to:

- evaluate the need for increasing efforts regarding existing policies and initiatives addressing the current under-representation of women in ICT-related education, *inter alia* by adapting ICT education at all levels to take into account the needs of female students and support research into women's use of ICT, in particular their information needs and interests;
- consider the usefulness of reinforcing initiatives, such as awareness campaigns and digital literacy courses, starting from the early stages of education, aimed at shaping attitudes and combating negative stereotypes and paying specific attention to women belonging to disadvantaged groups and areas;

in the area of employment, research, innovation and entrepreneurship to:

- further develop, *inter alia* by using the Structural Funds, initiatives aimed at training women in ICT, in particular for entry, re-entry and re-skilling in the labour market, also exploiting the added-value resulting from public-private partnerships and from the involvement of local communities and digital networks;
- promote suitable work organisation arrangements and new ways of reconciling work and family life for both men and women in order to combat low representation and retention rates of women in the ICT sector as well as in research and technological development;
- foster greater participation of women in research-based activities and businesses, as a tool for enhancing innovation;
- encourage, in particular through awareness campaigns and support of start-ups, the creation and ongoing development of enterprises by women, especially in knowledge-intensive sectors, as well as the equal participation of men and women in policy and decision making in the ICT and media sectors;

<sup>(1)</sup> OJ C 175, 24.7.2003, p. 3.

in the area of social and regional inclusion to:

- pay specific attention to women belonging to all groups at risk of digital exclusion, in order to increase their participation in social and working life in the knowledge society;
  - exploit the possibilities offered by new technologies for the inclusion and economic development of disadvantaged regions, *inter alia* by improving the opportunities to reconcile work and family life for both men and women, for example through telework;
  - recognise the importance of establishing appropriate infrastructures, including broadband connections, and of providing facilities for equal access of women and men, adequate basic training and e-learning, in particular for the development of remote and sparsely populated areas;
5. NOTES the commitments already undertaken by the social partners and RECOMMENDS them to pay specific attention to:
- improving training of women and men for the knowledge society, as well as providing equal access to it;
  - increasing cooperation with the educational system in order to ease the transition to work and promote lifelong learning;
- developing family-friendly work organisational forms so that men and women can reconcile work and family life, thus facilitating women's participation and retention in the ICT sector;
  - addressing gender equality in the knowledge society through corporate social responsibility.
6. INVITES the Commission to:
- pay special attention in its ongoing policies and initiatives to the three areas and to the specific aspects identified above;
  - monitor, in cooperation with the Member States, progress in this field and continue the analysis of the different factors underlying current gaps and possible solutions, including the collection and dissemination of information on good practices;
  - foster the development of partnerships among relevant stakeholders, including civil society, to facilitate the participation of women in the knowledge society;
  - in collaboration with Member States and without creating unnecessary bureaucratic burdens, develop, collect and publish gender-disaggregated statistics, as well as statistics related to gender equality, on different aspects of the knowledge society;
  - to report on progress of the Women in Industrial Research (WIR) initiative in the context of research, development, innovation and entrepreneurship.

**COUNCIL RESOLUTION****of 20 October 2003****on initiatives to combat trafficking in human beings, in particular women**

(2003/C 260/03)

THE COUNCIL OF THE EUROPEAN UNION:

## RECALLING

- that according to Article 5(3) of the Charter of Fundamental Rights of the European Union trafficking in human beings is prohibited,
- the Hague Ministerial Declaration of 26 April 1997 on European Guidelines for effective measures to prevent and Combat Trafficking in Women for the purpose of sexual exploitation,
- that the Tampere European Council in October 1999 called for action against human trafficking and the sexual exploitation of children,
- Council of Europe Recommendation 11 (2000) on trafficking in human beings for the purpose of sexual exploitation and Recommendation 1545 (2002) concerning campaigns against trafficking in women,
- the UN Convention on the Elimination of All Forms of Discrimination against Women, especially Article 6, and the UN Convention on the Rights of the Child, especially Articles 34 and 35,
- in particular that the Palermo Protocol (2002) to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime, develops a comprehensive approach specifically addressing trafficking in human beings and covers criminalisation, protection and assistance to victims as well as prevention of this phenomenon,
- the conclusions of the Syracuse Conference of December 2002 aiming to raise awareness of the issue of trafficking, particularly with regard to women, and of the need to widen and intensify activities in the Member States,
- that in this context, the Council (JHA) meeting with the candidate countries on 28 September 2001 agreed on 12 measures to combat trafficking, among them active operational cooperation, organisation of information campaigns and providing assistance to victims,

- the Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings,
- that the Brussels Declaration of September 2002 aims at further developing European and international cooperation, concrete measures, standards, best practices and mechanisms to prevent and combat trafficking in human beings and that the Council Conclusions of 8 May 2003 agree to examine appropriate proposals made to implement specific items contained in the Declaration,
- that the High Commissioner for Human Rights, in 2002, issued Recommended Guidelines and Principles on Human Rights and Human Trafficking stressing that the human rights of trafficked persons should be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims, where appropriate,
- that action within the European Union is being developed taking a comprehensive and multidisciplinary approach towards preventing and combating these phenomena,
- that in terms of financial support, Community programmes are an important tool with a view to strengthening policies, practices and cooperation in the EU and between EU Member States and candidate countries in the fight against human trafficking and the sexual exploitation of children,
- in particular that the Structural Funds (ESF and ERDF) can financially support actions to provide assistance to victims, as well as undertaking prevention and facilitating the social and economic integration of victims of human trafficking.

#### RECOGNISING THAT:

- the aforementioned UN instruments form a basis for enhanced global cooperation which is also reflected in developments regarding the European Union's relations with countries outside the Union,
- trafficking in human beings as defined by European Union law is not only a crime aiming at the sexual or labour exploitation of persons, in particular at the sexual exploitation and domestic slavery of women and children, but also shows disregard for the human rights of the victims,
- a variety of measures are required to tackle this present form of human slavery and programmes are also required for the purposes of the prevention of trafficking, the rehabilitation and the social integration of victims, alongside efforts to bring to justice the perpetrators and put a stop to further victimisation,
- eradication of the root causes of trafficking including, but not limited to, gender inequalities as well as unemployment, poverty and all forms of exploitation, should be at the forefront of long-term efforts to fight trafficking in women.

#### CALLS ON MEMBER STATES TO:

- ratify and fully implement all international conventions and instruments against trafficking in human beings, in particular the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organised Crime,
- take into account the Hague Declaration of 26 April 1997, which invites Member States to provide or explore the possibilities for the appointment of National Rapporteurs on Trafficking in women,
- continue their full commitment to pursuing at national, European and international level their activities against trafficking in human beings, in particular women, wherever possible in cooperation with, and where appropriate by providing support to NGOs,
- underline their commitment in respect of concrete measures, such as campaigns, aimed at increasing awareness and to intensify cross-border and international cooperation in the fields of prevention, victim protection and assistance, with a view to achieving tangible results in the fight against trafficking in human beings, especially women, building on good practices and networks at the appropriate levels,
- support and protect victims in accordance with national law in order to make it possible for them to return safely to their countries of origin or to receive adequate protection in their host countries, in the context of measures supported through the Structural Funds and Community Programmes.

#### INVITES THE COMMISSION AND THE MEMBER STATES TO:

- use the financial resources of the Community Initiative EQUAL to promote, in accordance with national law, the social and vocational integration of its beneficiaries,
- promote measures to set up a monitoring system on trafficking in human beings in order to provide updated data through the continuous and regular collection of information from the competent National Authorities such as National Bureaux and National Rapporteurs,
- ensure that all actions and initiatives to prevent the trafficking of human beings, especially women and children, and to protect the victims, have a gender sensitive perspective, that they are consistent with internationally recognised principles of non-discrimination and that they take into account the respect for the human rights and fundamental freedoms of the victims in accordance with Community and national law.

## COUNCIL RESOLUTION

of 15 July 2003

**on Social and Human Capital Building social and human capital in the knowledge society: learning, work, social cohesion and gender**

(2003/C 175/02)

THE COUNCIL OF THE EUROPEAN UNION:

- (1) RECALLING that the Lisbon European Council of March 2000 called for an Information Society for all, and underlined the need for investment in human resources and for every citizen to be equipped with the skills needed to live and work in the information society and the need to further all aspects of equality between men and women, including the reduction of occupational segregation;
- (2) RECALLING that the Lisbon European Council set the objective of raising the employment rate to an average of 70 % and of increasing the number of women in employment to an average of more than 60 % by 2010, and that the Stockholm European Council of March 2001 set intermediate targets for Community employment rates and a target of 50 % for older workers by 2010;
- (3) TAKING INTO ACCOUNT that the Brussels European Council of March 2003, in the context of the European Employment Strategy, underlined the importance of investment in human capital and lifelong learning as a prerequisite for the promotion of European competitiveness, for achieving high rates in growth and employment and for moving to a knowledge-based economy, and that it called for implementation of the 10-year programme on the objectives for education systems in this context;
- (4) RECALLING that one of the objectives in the fight against poverty and social exclusion, approved by the Nice European Council of December 2000 and revised by the Council in December 2002, is to fully exploit the potential of the knowledge-based society and of new information and communication technologies and ensure that no-one is excluded, taking particular account of the needs of people with disabilities;
- (5) RECALLING the key role that the social partners, through their autonomous work programme and in accordance with national traditions and practice, and non-governmental organisations should play, in particular in reducing the digital divide, by promoting access for all to the knowledge-based society and by exploiting the resulting potential, in particular in terms of jobs and qualifications;
- (6) RECALLING that the Council by its Resolution of 8 October 2001 on 'e-Inclusion' — exploiting the opportunities of the information society for social inclusion<sup>(1)</sup> called on the Member States to, amongst other things, provide Information and Communication Technologies (ICTs) training and other learning to disadvantaged people, promote digital literacy, encourage partnerships of all stakeholders and mainstream a gender equality approach in e-Inclusion policies;
- (7) RECALLING that, in accordance with the conclusions of the Barcelona European Council of March 2002, there is a need to ensure that all citizens, and in particular groups such as unemployed women, are well equipped with basic qualifications, especially those linked with ICTs;
- (8) RECALLING that the e-Europe 2005 Action Plan includes e-learning among its key areas and provides for actions for 're-skilling in the knowledge society', and that the Council's Conclusions on 'ICTs and e-business skills in Europe' of December 2002 underlined the need to continue and further strengthen efforts to close the still existing e-skills gaps and mismatches;
- (9) RECALLING, in the context of the European Year of People with disabilities (2003), the opportunities for participation of people with disabilities in the knowledge society and their need for barrier-free access, and Council Resolution on 6 February 2003 'e-Accessibility' — improving the access of people with disabilities to the knowledge-based society<sup>(2)</sup>;
- (10) TAKING INTO ACCOUNT the conclusions of the Conference 'Social and human capital in the knowledge society: policy implications' (October 2002), which highlighted the mutually reinforcing role of social and human capital for economic growth and social cohesion;
- (11) TAKING INTO ACCOUNT the Conclusions on the participation and access of women to the ICTs, following the 47th Session of the United Nations' Commission on the Status of Women (New York, March 2003);

<sup>(1)</sup> OJ C 292, 18.10.2001, p. 6.

<sup>(2)</sup> OJ C 39, 18.2.2003, p. 5.

(12) TAKING INTO ACCOUNT the Ministerial conference on 'Gender and ICTs' (Athens, May 2003) devoted to the risks and opportunities of the knowledge society for gender equality;

(13) TAKING INTO ACCOUNT the Commission Staff Working Paper, developed with the support of the High Level Group on the Employment and Social Dimension of the Information Society (ESDIS), on 'Building the Knowledge Society: Social and Human Capital Interactions' <sup>(1)</sup>;

1. RECOGNISES the key role that knowledge embodied in individual capabilities and social networks plays in the context of the Lisbon strategy for ensuring that the European Union becomes the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion.

2. UNDERLINES the need to develop the positive interactions of social and human capital in three areas in particular: learning, work and social cohesion, while integrating the gender dimension into all these areas.

3. CALLS on Member States to consider the social and human capital elements in the planning, development and implementation of their policies and initiatives, in particular as regards the following areas:

(a) Learning

— to promote existing policies and initiatives in education and training, in particular by ensuring quality by increasing the efficiency of investments in those areas, and strengthening complementarity between education, training and employment policies, as a basis for boosting new economic and sustainable growth in the context of the Lisbon strategy,

— to promote the new possibilities for education and training within lifelong learning, such as e-learning and learning at work, taking into consideration the needs and priorities of women, as well as the importance of increased efforts in areas such as transparency, validation and recognition of non-formal and informal learning and certification of skills for boosting mobility,

<sup>(1)</sup> ESDIS definitions:

Human capital: Knowledge, skills, competencies and attributes embodied in individuals that facilitate personal, social and economic well-being.

Social capital: Networks and participation in public life together with shared norms, values, culture, habits and practices, trust and understanding that facilitate cooperation within or among groups, to pursue shared objectives.

— to foster the skills necessary in the knowledge society, including not only basic ICTs skills but also more general capabilities such as cognitive skills, 'learning to learn', teamwork and problem solving,

— to underline the importance of synergies between teachers, parents, local communities, NGOs and enterprises for building both human and social capital through education and training,

— to emphasise the crucial importance of motivating people to participate in lifelong learning, particularly by encouraging people with a low level of qualifications, both at work and with regard to learning methods, and to emphasise the need to encourage enterprises to participate;

(b) Work

— to encourage enterprises, particularly SMEs, also using the Structural Funds and abiding by the competition rules, in the adoption of innovative work practices such as networking, clustering, e-business and e-work,

— to harness the potential of organisational learning and knowledge management solutions to enhance both social and human capital in the enterprise and foster innovation and competitiveness,

— to highlight the importance of ensuring that all workers within their specific enterprises and organisations are fully involved and properly trained in the adoption of innovative work practices, organisational learning and knowledge management which can help facilitate change, and are thus aware of the benefits in terms of improved competitiveness and quality of working life,

— to foster social capital at local level, while abiding by the competition rules, through cooperation with the social partners, enterprises, universities, research centres, NGOs and local administrations,

— to encourage, also using the Structural Funds, specific initiatives aimed at tackling the problem of well-educated/trained people having more possibilities and, in reality, more access to learning opportunities than less well-educated/trained people, who should most benefit from training, such as women and older workers,

- to encourage the creation of new tasks and activities, identifying new occupational profiles as a means of innovation, creating jobs, boosting productivity and increasing human capital;

(c) Social Cohesion

- to favour an inclusive knowledge society by further developing e-Inclusion policies, in order, in particular, to tap the opportunities offered by new technologies for the inclusion of people with disabilities, and by economic development of disadvantaged areas,
- to promote the positive role of the social economy, of local development initiatives and of local communities in social capital building,
- to highlight the importance of formal and informal social networks, including digital networks, for social cohesion and the balance between flexibility, security and quality of life,
- to foster the new possibilities that ICTs offer for civic participation and volunteering,
- to prevent any imbalance in access to new technologies for persons over 40 and encourage involvement of the potentially active workforce, in the framework of the European Employment Strategy;

(d) Gender

- to fully integrate the gender perspective in all the areas mentioned under (a), (b) and (c), according to the principles of gender mainstreaming,
- to favour the empowerment of women in the knowledge society and ensure equal opportunities of access to decision-making positions in economic and public life,
- to address the current gender gaps in access to ICTs-related education, jobs and the use of ICTs,
- to enable full participation by women, including those with disabilities, in professional life, *inter alia* via the adequate provision of care facilities for children and other dependants,

- to examine working conditions for women in the knowledge society and promote any necessary improvements,

- to exploit the potential offered by ICTs for the creation of new job opportunities, especially through e-working, by making it easier to reconcile working and family life, and for the development of distance-learning programmes, especially for women in rural areas,

- to promote the use of ICTs as an effective tool for the dissemination of information and for protection and support against gender violence,

- to develop policies in support of women's economic initiatives in the ICTs sector and to foster equal participation in relevant networks,

- to highlight the consequences of the different choices made by gender as regards educational subjects and the subsequent effect on work and social life and, in particular, encourage more women to pursue higher-education studies in subjects connected with the information society,

- to ensure the collection of gender disaggregated data in ICTs use in order to develop relevant indicators.

4. NOTES the commitments already undertaken by the social partners as part of their autonomous work programme, and RECOMMENDS them in accordance with national traditions and practices:

- (a) to further develop their attention to the issue of the training of women and men in the knowledge society;

- (b) to pay particular attention to continuing their initiatives favouring equal opportunities for men and women in access to training, such as family-friendly practical arrangements, and to their initiatives relating to people with disabilities;

- (c) to continue their efforts to implement their framework for action on lifelong learning concluded in 2002, with particular attention to the aspects identified above;

- (d) to study and analyse new ways and possibilities favouring accumulation and development of human and social capital in the changing workplace;



- (e) to make progress in the field of corporate social responsibility, also given its positive role for local community development;
- (f) to support by different means the attainment of an adequate work-life balance allowing citizens to fully engage in family and community related activities, as well in volunteering, civic and political participation;
- (g) to pay particular attention to the gender perspective when developing ICTs policies in order to give women and men equal access to ICTs jobs.

5. INVITES the Commission to:

- (a) pay special attention to the social and human capital aspects in all its on-going policies and initiatives, ensuring coordination and avoiding unnecessary duplications;
- (b) underline the key role of networking, also via ICTs, between higher education, centres for excellence and

research institutions, to build social capital for the development and diffusion of high-quality learning material and methodology;

- (c) continue, in cooperation with the Member States, the analysis on human and social capital issues, on their evolving interactions in the knowledge society and on their effects on living and working conditions; and pursue advanced research in this area, including via its dedicated centres;
- (d) establish, or enhance, on-going cooperation with other international institutions and third countries, on social and human capital issues and develop improved empirical analysis in this area, also with a view to the UN World Summit on the Information Society in December 2003; and
- (e) ensure the integration of the gender dimension when pursuing and developing the activities mentioned above and consider the need for gender impact assessments, in the areas mentioned, in order to avoid any undesired adverse effects and enhance the quality and effectiveness of the policies.

## I

(Information)

## COUNCIL

## COUNCIL RESOLUTION

of 26 June 2001

on science and society and on women in science

(2001/C 199/01)

THE COUNCIL OF THE EUROPEAN UNION,

1. RECALLING Articles 2 and 3 of the Treaty establishing the European Community, which enshrine the promotion of equality between men and women as one of the Community's objectives;
2. RECALLING the Conclusions of the European Councils in Lisbon on 23 and 24 March 2000 and in Stockholm on 23 and 24 March 2001 on the creation of a European knowledge-based society, including the emphasis placed on education, training and information technology skills and on the ethical aspects of biotechnology, respectively;
3. RECALLING the Commission's Communication of 18 January 2000 'Towards a European research area' as well as its Communication of 4 October 2000 on 'Making a reality of the European research area' in which reference is made to the importance of science and society issues;
4. RECALLING the Council Resolution of 16 November 2000 <sup>(1)</sup> on the need to deepen the debate on science in society, to increase public awareness of the issues and to reinforce the links between research policies and societal needs;
5. NOTING the Commission's working document of 16 November 2000 on 'Science, society and the citizen in Europe', which points to a series of important issues for both policy-makers and the European citizen and the own-initiative report of the Economic and Social Committee of 30 May 2001 on this document;
6. BEARING IN MIND the discussions on science and society at the Uppsala informal meeting of Ministers for Education and Research on 2 March 2001;
7. RECALLING the meeting held on scientific and technological culture in Lisbon on 10 and 11 May 2001;
8. BEARING IN MIND the European Technology Assessment Network (ETAN) report 'Science policies in the European Union: Promoting excellence through mainstreaming gender equality' of November 1999;
9. RECALLING the progress accomplished in the Member States and associated countries since the Commission's Communication on 'Women and science: mobilising women to enrich European research' and the Council Resolution of 20 May 1999 on women and science <sup>(2)</sup>, as well as the Resolution by the European Parliament of 3 February 2000 on this communication; WELCOMING the work of the Helsinki Group;
10. NOTING the Commission's working document of 15 May 2001 on 'Women and science: the gender dimension as a leverage for reforming science', which suggests a strategy on women and science;
11. NOTING the recent CREST report on Science and Society;
12. RECOGNISES the need:
  - to stimulate a dialogue with society at large on issues of public interest and concern in the field of science,
  - to promote interest in science education, in research and in careers in science among young people,
  - to promote the role of women in science and to stimulate their career prospects in the field of science and science management,

<sup>(1)</sup> OJ C 374, 28.12.2000, p. 1.<sup>(2)</sup> OJ C 201, 16.7.1999, p. 1.

— to concentrate and continue efforts to promote gender mainstreaming both on a European and on a national level;

13. RECOGNISES that these issues are inherent to all aspects of scientific and technological advancement, and underlines the importance of openness regarding scientific advances and of greater participation by society and stakeholders in policy-making processes;

14. RECOGNISES that the proposal for the sixth framework programme contributes to the creation of the European research area and WELCOMES that the issue of science and society is included in this proposal as one of the priority activities; RECOGNISES the need to ensure that science and society issues are dealt with in a coherent and coordinated way throughout the whole framework programme,

TO THIS END, the Council, in relation to science and society:

15. ENCOURAGES the Member States and the Commission to explore measures for the networking, benchmarking and exchange of best practices to improve the science and society dialogue, including, where appropriate, the examination of the need to develop common practices and guidelines on risk assessment and management and on the use of scientific advice for governance;

16. ENCOURAGES Member States and the Commission to undertake efforts to improve public awareness of science and technology, to stimulate the popularisation of science and the interest of the media in this respect, including the possibility of developing a European initiative on scientific and technological culture, and to boost science education, in particular by reinforcing the coordination of national and European activities and policies in these fields, while emphasising the need to develop strategies to attract the younger generation to careers in science and technology;

17. INVITES the Member States and the Commission to promote, in close liaison with the scientific community, regular events of high visibility and quality presenting important topics of scientific and technological research and exploring scientific and technological issues of interest to the public at large;

18. INVITES Member States and the Commission to pursue activities aimed at initiating a dialogue on ethical issues in relation to science and technologies at the European, national, regional and local levels;

19. RECOMMENDS the Commission, together with representatives from national institutions in the Member States and involving, as appropriate, candidate countries and countries associated to the Community research programmes, to explore the means of promoting cooperation with existing bodies operating in this area with a view to monitoring social, ethical and legal developments with respect to relevant science and technology research topics and to increase the exchange of information on them;

20. INVITES the Commission to submit to the Council its proposed action plan on science and society before the end of 2001,

TO THIS END, the Council, in relation to women in science:

21. INVITES the Commission:

— to continue and intensify its efforts to promote the role of women in science and technology and to ensure an effective mainstreaming of the gender dimension when implementing the sixth framework programme and developing the European research area,

— in particular, to promote gender equality in those areas dealing with human resources and mobility activities,

— to pay particular attention to the gender dimension in benchmarking activities;

22. URGES the Commission to reach its target of a 40% participation of women at all levels in implementing and managing research programmes, while continuing to bear in mind the need to ensure scientific and technological excellence;

23. INVITES Member States and the Commission to pursue the efforts undertaken to promote women in science at national level, to collect gender-disaggregated statistics in human resources in science and technology and to develop indicators in order to monitor progress towards equality between men and women in European research;

24. INVITES the Member States and the Commission to support the Helsinki Group in continuing its work, and to deepen cooperation to promote the role of women in European research;

25. INVITES the Commission to report on progress in the area of women in science within two years.

**RESOLUTION OF THE COUNCIL AND OF THE MINISTERS FOR EMPLOYMENT AND SOCIAL  
POLICY, MEETING WITHIN THE COUNCIL**

**of 29 June 2000**

**on the balanced participation of women and men in family and working life**

(2000/C 218/02)

THE COUNCIL OF THE EUROPEAN UNION AND THE MINISTERS  
FOR EMPLOYMENT AND SOCIAL POLICY, MEETING WITHIN THE  
COUNCIL,

to be taken into account in the field of the reconciliation  
of family and working life.

Whereas:

(1) The Treaty of Amsterdam lays down that the Community shall have as its task the promotion of equality between men and women, and to this end creates new possibilities for Community action, in particular in Articles 2, 3, 137 and 141 of the Treaty establishing the European Community.

(2) The principle of equality between men and women makes it essential to offset the disadvantage faced by women with regard to conditions for access to and participation in the labour market and the disadvantage faced by men with regard to participating in family life, arising from social practices which still presuppose that women are chiefly responsible for unpaid work related to looking after a family and men chiefly responsible for paid work derived from an economic activity.

(3) The principle of equality between men and women in relation to employment and labour implies equal sharing between working fathers and mothers, in particular of time off work to look after children or other dependants.

(4) The balanced participation of women and of men in both the labour market and in family life which is an advantage to both men and women is an essential aspect of the development of society, and maternity, paternity and the rights of children are eminent social values to be protected by society, the Member States and the European Community.

(5) Both men and women, without discrimination on the grounds of sex, have a right to reconcile family and working life.

(6) There is a significant *acquis communautaire*, as well as other relevant initiatives in the European Union context,

(7) Council Decision 2000/228/EC of 13 March 2000 on Guidelines for Member States' employment policies for the year 2000<sup>(1)</sup> provides for strengthening policies for equal opportunities for men and women, paying particular attention to the need to introduce measures for reconciling working and family life. This Decision underlines the importance for men and women of policies on career breaks, parental leave and part-time work, as well as flexible working arrangements which serve the interests of both employers and employees, while maintaining the necessary balance between flexibility and safety.

(8) The Lisbon European Council of 23 and 24 March 2000 recognised the importance of furthering all aspects of equal opportunities, including reducing occupational segregation, and making it easier to reconcile working life and family life, and considered that one of the overall aims of active employment policies should be to increase the number of women in employment to more than 60% by 2010.

(9) There is a range of international instruments and agreements relating to the reconciling of working and family life, in particular in the context of the United Nations, the Council of Europe and the International Labour Organisation.

And bearing in mind that:

(10) In the light of Article 141(3) of the Treaty establishing the European Community, it is important to protect both male and female workers exercising rights relating to paternity, maternity or to the reconciling of working and family life.

(11) The beginning of the twenty-first century is a symbolic moment to give shape to the new social contract on

<sup>(1)</sup> OJ L 72, 21.3.2000, p. 15.

gender, in which the *de facto* equality of men and women in the public and private domains will be socially accepted as a condition for democracy, a prerequisite for citizenship and a guarantee of individual autonomy and freedom, and will be reflected in all European Union policies,

untransferable right to paternity leave, subsequent upon the birth or adoption of a child, maintaining their rights relating to employment to be taken at the same time as the mother takes maternity leave irrespective of the length of the periods of maternity and paternity leave;

1. DECLARE THAT:

(a) the objective of balanced participation of men and women in family and working life, coupled with the objective of balanced participation of men and women in the decision-making process, constitute two particularly relevant conditions for equality between men and women;

(ii) examining the scope for the respective legal systems to grant working men rights likely to provide major support for family life with a view to cementing equality;

(b) there is a need for a global and integrated approach for reconciling family and working life as a right for men and women, a means of personal fulfillment in public, social, family and private life, an eminent social value, as the responsibility of society, the Member States and the European Community;

(iii) reinforcing measures to encourage a balanced sharing between working men and women of the care to be provided for children, elderly, disabled or other dependent persons;

(c) it is necessary to make every effort and to promote specific measures, as well as the respective accompanying and evaluation measures, in particular by means of appropriate indicators, to bring about the changes in structures and attitudes which are essential for the balanced participation of men and women in the family and at work;

(iv) reinforcing measures to encourage the development of support services for families and laying down criteria for examining results as regards the improvement of child-care structures;

(d) it is necessary to promote measures to improve the quality of life for all, in respect and in active solidarity between men and women *vis-à-vis* both future and older generations.

(v) granting, where appropriate, specific protection to single-parent families;

(vi) examining the possibility of harmonising school and working hours;

(vii) examining the possibility of developing school programmes supporting an awareness of the needs related to reconciling working and family life as a precondition for the equality of men and women;

2. ENCOURAGE Member States to:

(a) reinforce in their Government programmes the promotion of balanced participation of men and women in family and working life as one of the basic conditions for *de facto* equality, indicating the concrete measures to be adopted, both horizontal and specific;

(viii) regularly compiling and publishing a report containing figures on the participation of women and men in the labour market and of men and women in family life, as well as on the use by women and men of maternity, paternity and parental leave, and their respective effects on the situation of men and women in the labour market, in order to acquire accurate knowledge of the factual situation and to promote public awareness in this area;

(b) develop global and integrated strategies aimed at bringing about the balanced participation of men and women in family and working life, considering the measures enumerated below, without prejudice to the best practices applied in the different Member States:

(ix) providing support for scientific research in this area so as to enable the development of new ideas and concepts;

(i) examining the scope for the respective legal systems to grant working men an individual and

(x) developing incentives and support measures for non-governmental organisations which are actively committed to the objective set out in this resolution;

- (xi) devising, launching and promoting information and awareness campaigns at regular intervals, designed to develop more progressive outlooks as regards both the general public and specific target groups;
- (xii) encouraging businesses, in particular small and medium-sized enterprises, to introduce and extend management practices which take account of their workers' family life.
3. CALL UPON the institutions and bodies of the European Community:
- (a) to implement measures, in their capacity as employers and on the basis of a review, promoting the balanced recruitment and career advancement of men and women with a view to preventing the horizontal and vertical segregation of the labour market;
- (b) to evaluate the results thereof periodically and have them published.
4. CALL ON the Commission:
- (a) notably within the framework of Community initiative programmes, to step up its information and awareness effort and its efforts to promote research and to introduce pilot schemes to implement the balanced participation of men and women in family and working life;
- (b) to take account of this resolution in its fifth action programme on equal opportunities for men and women, notably placing emphasis on equality of family responsibilities of men and women in the context of its strategic objectives and giving sufficient prominence to measures to promote the balanced participation of men and women in working and family life;
- (c) to propose, in the light of the new requirements laid down in Article 2, 3, 137(1) and 141(3) of the Treaty establishing the European Community and taking into account the aforementioned fifth action programme, new forms of balanced participation of women and men both in working and family life;
- (d) to work towards developing dialogue between the social partners at European level, whilst respecting their autonomy, with a view to the promotion of equality between men and women by reconciling family and working life;
- (e) to ensure that the Member States are kept informed regularly on progress made in this area.
5. CALL on employers in the public and private sectors, workers and the social partners at national and European level:
- (a) to step up their efforts to ensure balanced participation of men and women in family and working life, notably through the organisation of working time and the abolition of conditions which lead to wage differentials between men and women;
- (b) in particular the social partners to endeavour to find solutions which encourage the balanced participation of men and women in working life.
6. UNDERTAKE TO conduct regular discussions on the topics covered by this resolution in a parallel framework to the topic of balanced participation of men and women in the decision-making process.

## I

(Information)

## COUNCIL

## COUNCIL RESOLUTION

of 20 May 1999

on women and science

(1999/C 201/01)

THE COUNCIL OF THE EUROPEAN UNION,

plan for equal opportunities in the Commission (1997 to 2000) which applies to the scientific personnel of the Joint Research Centre (JRC);

Whereas:

(1) The promotion of equality between men and women is enshrined in Articles 2 and 3 of the Treaty establishing the European Community, as one of the Community's objectives;

(7) The Scientific and Technical Research Committee (CREST) was consulted and issued an opinion on this matter;

(2) The Council has reaffirmed this principle in the context of various Community policies, and in particular in its Recommendation of 2 December 1996 on the balanced participation of women and men in the decision-making process <sup>(1)</sup>;

WELCOMES the Commission's communication and the initiatives set out therein for promoting the involvement of women in RTD,

(3) The European Parliament in its Resolution of 9 March 1999 on the integration of equal opportunities in the Community policies has reiterated the importance it attaches to this matter;

RECOGNISES that:

(a) the question of under-representation of women in the field of scientific and technical research is a common concern for Member States and the Community and needs to be addressed, whilst noting that the problem of under-representation is not confined to the research sector alone;

(4) The Community equal opportunities policy is taken into account in the Fifth RTD Framework Programme (1998 to 2002) adopted by Decision No 182/1999/EC of the European Parliament and of the Council <sup>(2)</sup>;

(b) this issue can best be addressed through effective and sustained action at all levels: regional, national and Community level. In this context, account also needs to be taken of social and economic factors as well as of the critical role of education and training in fostering the effective participation of women;

(5) The Commission presented, on 19 February 1999, a Communication on the subject 'Women and science: mobilising women to enrich European research' in which it proposes a series of measures to be taken so as to stimulate discussion and the sharing of experience in this field among Member States and to develop a coherent approach towards promoting women in research financed by the Community;

(c) the gender mainstreaming of research policy is not limited to promotion of women as research workers but should also ensure that research meets the needs of all citizens and contributes to the understanding of gender-relevant issues;

(6) An equal opportunities policy is also pursued by the Commission for its personnel through the third action

(d) the two objectives announced in the Commission's communication, i.e. to stimulate discussion and the sharing of experience in this field among Member States and to promote the involvement of women in Community research, on the basis of a coherent approach to be pursued in the implementation of the Fifth Framework Programme are most appropriate for action at Community level;

<sup>(1)</sup> OJ L 319, 10.12.1996, p. 11.

<sup>(2)</sup> OJ L 26, 1.2.1999, p. 1.

- (e) the establishment of a specific target as regards participation of women in panels, consultative Committees and fellowships is a valid objective; takes note that the Commission has set itself a target of 40 % as regards such participation in the Fifth Framework Programme, while meeting the general criteria of the Fifth Framework Programme, including scientific and technological excellence;
- (f) more comprehensive indicators and statistical data on the participation of women in scientific research, which could be included, inter alia, in the European report on S&T indicators, will facilitate the development of appropriate policies at national and Community levels;

INVITES MEMBER STATES to:

- (a) make available existing information on the gender balance of R&D personnel; and establish methods and procedures to collect and produce appropriate data and indicators in the medium-term (in particular data showing the vertical and horizontal distribution of women within the scientific research system at the levels of government, higher education and, as far as possible, the private sector) to measure the participation of women in the development of science and technology in Europe;
- (b) actively engage in the dialogue proposed by the Commission in its communication by exchanging views on policies pursued at the national level so as to be able to analyse the situation and make a joint assessment of

on-going policies, taking into account benchmarking and best practice in Member States. Research institutes, higher education organisations and private enterprises should be involved in this process;

- (c) pursue the objective of gender equality in science by appropriate means, including through other national policies (e.g. through national employment action plans, where relevant);

INVITES THE COMMISSION to:

- (a) produce, building on Member States' contributions, comparable data and European indicators, as a basis for a Community-wide assessment of the situation of women in RTD;
- (b) pursue its efforts to encourage the increased participation of women throughout the Fifth Framework Programme, in accordance with all the principles and implementation criteria;
- (c) propose, in the light of the abovementioned dialogue with the Member States, guidelines for further initiatives to promote women in RTD;
- (d) deliver a special report to the European Parliament and the Council on progress in implementing the measures proposed in its Communication, after two years at the latest, with a view, inter alia, to contributing to the preparation of future Community research policies and programmes.



## I

*(Information)*

## COUNCIL

## COUNCIL RESOLUTION

of 4 December 1997

concerning the report on the state of women's health in the European Community

(97/C 394/01)

THE COUNCIL OF THE EUROPEAN UNION,

REFERRING TO the Commission report of 19 July 1995 on the state of health in the European Community and the Council's conclusions of 30 November 1995<sup>(1)</sup>;

RECALLING that, in the aforementioned conclusions, the Council considered that the preparation of reports containing comprehensive and accurate information on health status, determinants of health and health-related activities throughout the Community provides a way in which to help improve public knowledge and understanding of major health problems in the Community and of the action and programmes being undertaken at Community and Member State level;

RECALLING also that in the said conclusions the Council agreed to consider further the objective and format of future reports, the sources of data to be used, the frequency of their publication and how they might be used as a basis for determining priorities for Community action;

WELCOMES the Commission's report of 22 May 1997 on the state of women's health in the European Community;

OBSERVES that this report highlights a lack of reliable, up-to-date and comparable data as well as a lack of data broken down according to gender;

NOTES that this report shows a considerable increase in women's life expectancy since 1970 and continuing

differences between the life expectancy of women in the different Member States and between the life expectancy of men and that of women;

NOTES also that the report highlights sexual and reproductive health problems, the increase in breast and lung cancers, the problem of violence against women with its adverse impact on physical and psychological health, the high number of attempted suicides, the different aspects of eating disorders and the extent of chronic illnesses resulting from women's increased life expectancy;

CONSIDERS that the specific problems linked to women's health should be taken into account when the new framework for action in the field of public health is being considered;

CONSIDERS THAT, for the purposes of drawing up future reports,

— the objective of the reports should be to provide information on health trends and determinants which can be used in the planning, among other things, of measures to be undertaken at Community level as well as for the evaluation of those already being carried out,

— topics should be selected according to their significance for future Community measures in the field of health,

— these reports should take account of the socio-economic factors affecting health, analyse in greater depth, in the fields considered, the data and the differences between Member States and their causes,

<sup>(1)</sup> OJ C 350, 30. 12. 1995, p. 1.

and, where appropriate, formulate operational conclusions for action at Community level;

STRESSES that Member States should be consulted in advance and the competent authorities/bodies of the Member States associated with the preparation of these reports, including the validation of data;

EMPHASIZES that the actions to be implemented under the programme of Community action on health monitoring within the framework for action in the field of public health (1997 to 2001) <sup>(1)</sup> are aimed, *inter alia*, at establishing Community indicators by developing appropriate methods for collecting health data rendered progressively more comparable, as well as support for analyses and reports on health status, trends and determinants;

CONSIDERS that this work, carried out in close cooperation with the Member States, is an essential contribution towards improving the quality and comparability of the data so as to increase the reliability of the reports;

CONSIDERS that this work will also contribute towards the definition of an appropriate methodology for preparing future reports and the improvement of their quality and value;

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<sup>(1)</sup> Decision No 1400/97/EC of the European Parliament and of the Council of 30 June 1997 (OJ L 193, 22. 7. 1997, p. 1).

CALLS upon the Member States to proceed with the breakdown of health data by gender, account being taken of socio-economic factors, and to gather more data concerning health problems specific to women, paying particular attention to improving women's quality of life, given *inter alia* the increase in women's life expectancy;

CALLS upon the Commission to:

- take due account of this report in implementing the programmes under way and in developing future action, including determining the priorities for Community action,
- attach particular importance to improving the quality and comparability of health data and to their breakdown according to gender in the framework of the programme of Community action on health monitoring,
- for the preparation of future reports, consult the Member States in an appropriate manner, in particular in the committee for the health monitoring programme, in order to determine the objective and format of future reports, the frequency with which they should appear, the choice of topics, the data sources to be used, the methods to be followed and the selection of coordinators.

# COUNCIL RESOLUTION (96/C 386/01)

of 2 December 1996

## on mainstreaming equal opportunities for men and women into the European Structural Funds

THE COUNCIL OF THE EUROPEAN UNION,

- (1) Whereas equal opportunities for men and women on the labour market also promote competitiveness and economic growth; whereas the mainstreaming of equal opportunities into structural policies is a response to the need to reduce inequality of opportunities between men and women with regard to the rate of employment, the level of training, access to the labour market and involvement in the decision-making process;
- (2) Whereas the Heads of State or Government meeting within the European Council at Madrid on 15 and 16 December 1995 reaffirmed that the fight against unemployment and for equal opportunities is the priority task of the European Union and its Member States, and agreed that there should be an intensification of efforts to promote equal opportunities in the field of employment;
- (3) Whereas the European Structural Funds (ERDF, ESF, EAGGF and FIFG) constitute an important instrument for working towards this goal, in accordance with their legal and economic commitments;
- (4) Whereas the priority objectives of the Structural Funds are governed by Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(1)</sup> and each of the Funds contributes in appropriate fashion to them; whereas the differences between the Funds must be respected if they are to achieve those objectives;
- (5) Whereas Regulation (EEC) No 2052/88 clearly sets down the respective responsibilities of the Member States and of the Commission in the implementation of the Structural Funds, in the framework of partnership and in accordance with the principle of subsidiarity;
- (6) Whereas Regulations (EEC) No 2081/93<sup>(2)</sup>, No 2082/93<sup>(3)</sup>, No 2083/93<sup>(4)</sup>, No 2084/93<sup>(5)</sup> and

No 2085/93<sup>(6)</sup> governing the Structural Funds adopted by the Council in 1993 refer to the principle of equal opportunities for men and women on the employment market as a goal to which structural measures should contribute; whereas promoting equal opportunities on the labour market is a specific task of the European Social Fund;

- (7) Whereas the medium-term Community action programme on equal opportunities for men and women (1996 to 2000), adopted by the Council under Decision 95/593/EC<sup>(7)</sup>, is intended to promote the integration of equal opportunities for men and women in the process of preparing, implementing and monitoring all policies and activities of the European Union and the Member States, having regard to their respective powers;
- (8) Whereas the mainstreaming of equal opportunities for men and women into all policies and activities is one of the key principles set out in the Platform for Action adopted by the Fourth World Conference on Women (Beijing, 14 and 15 September 1995);
- (9) Whereas, in spite of the improvements made since the adoption of the Council Resolution of 22 June 1994 on the promotion of equal opportunities for men and women through action by the European Structural Funds<sup>(8)</sup>, Structural Fund operations to promote equal opportunities could be further improved, and efforts to mobilise the various partners involved and in particular the national and regional authorities responsible for devising and implementing the programmes must be continued and intensified, as noted in the Communication from the Commission of 21 February 1996 on incorporating equal opportunities for women and men into all community policies and activities;
- (10) Whereas this point was endorsed at the European conference on equal opportunities and the Structural Funds held in Brussels on 7 and 8 March 1996 at the initiative of the Belgian Government;
- (11) Whereas a more active approach to economic and social solidarity, with particular emphasis on measures to promote equal opportunities for men and women, should be promoted; whereas the

<sup>(1)</sup> OJ L 185, 15.7.1988, p. 9. Regulation as last amended by Regulation (EC) No 3193/94 (OJ L 337, 24.12.1994, p. 11).

<sup>(2)</sup> OJ L 193, 31.7.1993, p. 5.

<sup>(3)</sup> OJ L 193, 31.7.1993, p. 20.

<sup>(4)</sup> OJ L 193, 31.7.1993, p. 34.

<sup>(5)</sup> OJ L 193, 31.7.1993, p. 39.

<sup>(6)</sup> OJ L 193, 31.7.1993, p. 44.

<sup>(7)</sup> OJ L 335, 30.12.1995, p. 37.

<sup>(8)</sup> OJ C 231, 20.8.1994, p. 1.

Funds might play an important role in reconciling family and working life and in integrating disadvantaged women and this can be combined with local employment initiatives and with the development of new sources of employment, as noted in the Communication from the Commission of 20 March 1996 on Community structural assistance and employment;

- (12) Whereas further impetus should be given towards mainstreaming equal opportunities into action supported by the Structural Funds, in the light of recent developments and commitments at the highest level and in view of forthcoming reviews;
- (13) Whereas the monitoring committees have an essential role to play in ensuring that the aims affirmed in the programming of all Structural Funds will receive practical expression in the implementation process; whereas they should work to ensure that the mainstreaming of equal opportunities into the Structural Funds is translated into concrete measures,

I. CALLS ON THE COMMISSION AND THE MEMBER STATES, WORKING IN PARTNERSHIP AND HAVING REGARD TO THEIR RESPECTIVE COMPETENCES, to make a continued, deepened and determined effort to mainstream the principle of equal opportunities for men and women into action supported by the Structural Funds.

## II. CALLS ON THE MEMBER STATES:

1. in accordance with the provisions laid down in the Regulations and with the priorities and commitments agreed in the Community Support Frameworks and in the single programming documents, to promote strengthened use of the Structural Funds to support actions which will make a positive contribution to the promotion of equal opportunities, in such areas, for instance, as the improvement of social infrastructure, access to employment and the terms and conditions of employment, access to business services and facilities, and the reconciliation of professional and family life for women and men;
2. to make full use of the existing programming possibilities of the various forms of Structural Fund intervention to promote equal opportunities, where appropriate by undertaking more operations combining the use of the different Structural Funds for actions in promotion of equal opportunities;
3. to examine the scope for refocussing programmes in response to the priorities established by the European Council at Essen and confirmed at Cannes and Madrid, namely the

fight against unemployment and for equal opportunities.

## III. CALLS ON THE COMMISSION AND THE MEMBER STATES, WORKING IN PARTNERSHIP AND HAVING REGARD TO THEIR RESPECTIVE COMPETENCES:

### 1. in relation to monitoring:

- (a) to ensure, where appropriate, the participation in the monitoring committees of the competent authorities and bodies involved in promoting equal opportunities at local, regional and national level;
- (b) to promote a balanced participation of women and men in the decision-making, selecting and monitoring bodies at local, regional and national level;
- (c) to ensure, where appropriate, regular consideration of equal opportunities by the monitoring committees, with a view to examining how efforts to promote equal opportunities within the mainstream of Structural Fund actions and Community initiatives, as well as through specific initiatives, can be improved;
- (d) to cooperate in the production of statistics, on the basis of available data, which are an essential prerequisite for measuring:

- the impact of action supported by the Structural Funds on the availability of social infrastructure,
- break down of long-term unemployed by sex,
- female and male economic activity rates, and
- proportions of women and men by socioeconomic category;

- (e) to consider using the flexibility which results from annual reprogramming of unspent credits to strengthen efforts to promote equal opportunities;

### 2. in relation to evaluations and forthcoming reviews:

- (a) to ensure that evaluations measure the extent to which the principle of promoting equal opportunities has been taken into account in the current programming period, with particular regard to the involvement of women in general measures and to the implementation, the relevance and the outcome of such measures; to develop, where appropriate, adequate evaluation procedures, tools and indicators to this end;

- (b) on the basis of these evaluations, to decide on any changes which it may be necessary to make in the programming of actions for the remainder of the programming period.

#### IV. INVITES THE COMMISSION:

1. on the basis of existing structures, to systematise:

- the identification of good practice with regard to the promotion of equal opportunities through action supported by the various Structural Funds, and

- the dissemination of information and experience on such good practice;

2. to take account of this resolution, as well as the Council Resolution of 22 June 1994 on the promotion of equal opportunities for men and women through action by the European Structural Funds, when making a proposal for review by the Council of the Structural Funds;

3. to review each year in its annual report on the Structural Funds the impact of this Resolution, beginning with the report drawn up in 1998.

RESOLUTION OF THE COUNCIL AND OF THE REPRESENTATIVES OF  
THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE  
COUNCIL (95/C 296/06)

of 5 October 1995

on the image of women and men portrayed in advertising and the media

THE COUNCIL OF THE EUROPEAN UNION  
AND THE REPRESENTATIVES OF THE  
GOVERNMENTS OF THE MEMBER STATES,  
MEETING WITHIN THE COUNCIL,

Whereas the Council resolution of 12 July 1982 on the promotion of equal opportunities for women<sup>(1)</sup> confirms the need to take steps to increase public awareness and disseminate information to support the change in attitudes to sharing occupational, family and social responsibilities;

Whereas the European Parliament resolution of 14 October 1987 on the depiction and position of women in the media<sup>(2)</sup> recommends the media, advertising agencies, governments and socio-political groups to implement practical measures to encourage the promotion of women, guarantee equal opportunities and define the role played by women in professional, political and social life;

Whereas Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities<sup>(3)</sup> stipulates that television advertising should not jeopardise respect for human dignity or include any discrimination on grounds of sex;

Whereas the Commission, in its third medium-term action programme on equal opportunities for women and men (1991 to 1995), has defined actions to promote a positive image of women, emphasising in particular the promotion of a better representation of women in the media industry as well as in the institutional and professional environment of media organisations, the development of innovatory programmes which challenge traditional images and the drawing up of recommendations concerning the representation of women in the media industry;

Whereas the Council, in its resolution of 21 May 1991 on the third medium-term Community action programme on equal opportunities for women and men (1991 to 1995)<sup>(4)</sup>, invited the Member States to continue to encourage an improvement in the participation of women at all levels in the media sector and to

develop innovatory programmes which present a full, realistic picture of women in society;

Whereas the Council, in its resolution of 27 March 1995 on the balanced participation of men and women in decision-making<sup>(5)</sup>, invited Member States to promote the balanced participation of women and men in decision-making as a priority objective in the context of their respective practices regarding equal opportunities for women and men;

Whereas the European Council, at its meetings in Essen (9 and 10 December 1994) and Cannes (26 and 27 June 1995), stressed that questions concerning equal opportunities for women and men are among those that will continue to constitute the most important tasks of the European Union and its Member States;

Whereas the European Conference of Women Ministers of the Member States of the Council of Europe (Brussels, 7 March 1994) declared its wish to achieve genuine equality between men and women in the Europe of tomorrow, came out in favour of promoting an image of women and men that was positive and free of prejudices or stereotypes and insisted on the need to implement all possible measures, e. g. a code of ethics, to prevent discrimination against women;

Whereas advertising and the media could play a part in changing attitudes in society by reflecting in particular the diversity of the roles played by both women and men in public and private life; whereas the roles of women in public life are represented less than those of men; whereas the roles of men in private life are represented much less often than those of women;

Whereas this resolution does not affect national respective constitutional rules or approaches and practices;

Whereas the Member States and/or the respective competent bodies must take into account the differences between advertising — even that in the media — and the media themselves as a forum for information and debate,

I. CONFIRM:

1. their attachment to the principle of freedom of expression and to the principle of freedom of the press and other means of communication;

(1) OJ C 186, 21.7.1982, p. 3.

(2) OJ C 305, 16.11.1987, p. 66.

(3) OJ L 298, 17.10.1989, p. 23.

(4) OJ C 142, 31.5.1991, p. 1.

(5) OJ C 168, 4.7.1995, p. 3.

2. that sexual stereotyping in advertising and the media is one of the factors in inequality which influence attitudes towards equality between women and men; that this highlights the importance of promoting equality in all areas of social life;
3. that advertising and the media can play an important part in changing attitudes in society by reflecting the diversity of the roles and potential of women and men, their participation in all aspects of social life, as well as a more balanced sharing of family, occupational and social responsibilities between women and men;
4. that advertising and the media should not undermine respect for human dignity nor contain discrimination on grounds of sex;

II. CALL ON the Member States and/or the respective competent bodies, in compliance with their national constitutional rules and/or approaches and practices to:

1. promote a diversified and realistic picture of the skills and potential of women and men in society;
2. take action aimed at disseminating this image by implementing measures with a view to:
  - 2.1. providing for appropriate measures to ensure respect for human dignity and an absence of discrimination on grounds of sex;
  - 2.2. implementing and/or encouraging regular information and awareness campaigns to promote awareness in advertising agencies, the media and the public so that they can identify material which is discriminatory on grounds of sex and is conveyed by advertising and the media;
  - 2.3. supporting and/or promoting forums for discussion, consultation, monitoring — where appropriate within a framework of voluntary

self-regulation — and follow-up with regard to material which is discriminatory on grounds of sex and is conveyed by advertising and the media;

- 2.4. supporting studies and initiatives which increase awareness in advertising agencies and the media of equality of opportunity and a more balanced sharing of responsibilities, in particular in public, political, economic, professional, social and family life;
- 2.5. placing special importance on values connected with equality of opportunity in all its forms and at all levels of education and training, particularly training for professions in advertising and the media;
- 2.6. promoting the balanced participation of women and men in production bodies, administrative bodies and decision-making posts;
- 2.7. encouraging advertising agencies and the media to promote:
  - (a) the study, creation and formulation of new ideas to reflect the diversity of the roles of women and men;
  - (b) recognition of the negative effects which stereotypes based on sex may have on the physical and mental health of the public in general and of young people in particular;
  - (c) the development and implementation of voluntary self-regulatory codes;

III. CALL ON the Commission to:

1. take account of this resolution, in particular when implementing its action programmes for equal opportunities for women and men;
2. establish and/or strengthen contacts with the bodies and organisations, at European level, specialised in the field of advertising and the media, and with the social partners.

# COUNCIL RESOLUTION (95/C 168/02)

of 27 March 1995

## on the balanced participation of men and women in decision-making

THE COUNCIL OF THE EUROPEAN UNION,

Whereas, in its third medium-term action programme on equal opportunities for men and women (1991 to 1995), the Commission undertook to develop Community action in a new key area concerning the participation of women in the decision-making process at every level of society, in order to improve the status of women in society;

Whereas the Council confirmed its support for the overall objective of this third action programme in its resolution of 21 May 1991<sup>(1)</sup>: it invited the Member States to 'encourage measures designed to promote the participation of women in the decision-making process in public, economic and social life';

Whereas the Council invited both sides of industry to 'take all necessary measures actively to promote women's representation in decision-making bodies';

Whereas, in its resolution of 11 February 1994 on women in decision-making bodies, the European Parliament invited the Member States to undertake specific action in this area;

Whereas the European Conference of Women Ministers from the Member States of the Council of Europe (Brussels, 7 March 1994) proclaimed, in its declaration of principle, its determination to bring about genuine equality between men and women in the Europe of tomorrow;

Whereas the first European conference on women in power (Athens, 2 and 3 November 1992) in particular highlighted the fact that the under-representation of women in decision-making prevents full account being taken of the interests and needs of the population as a whole,

### 1. AFFIRMS THAT:

- (a) the objective of balanced participation of men and women in decision-making and the sharing of responsibilities between men and women in every sphere of life constitutes an important condition for equality between men and women;
- (b) it is necessary to make every effort to bring about the changes in structures and attitudes which are essential for genuine equality of access to decision-making posts for men and

women in the political, economic, social and cultural fields;

### 2. INVITES the Member States to:

- (a) promote the balanced participation of men and women in decision-making as a priority objective in the context of their respective practices regarding equal opportunities for men and women and to adopt this objective as such in their governments' programmes;
- (b) develop an integrated global strategy for promoting the balanced participation of men and women in decision-making which spans the broad range of the following measures and takes into account the options and best methods applied in the various Member States;
  - (i) regularly compiling and publishing a report containing figures on the participation of women in decision-making posts in the political, economic, social and cultural fields, in order to acquire accurate knowledge of the factual situation and to promote awareness;
  - (ii) developing incentives and support measures for non-governmental organisations in general and in particular for groups who are actively committed in the field to this objective;
  - (iii) developing support for scientific research in this area so as to permit the development of new ideas and concepts;
  - (iv) devising, launching and promoting information and awareness campaigns at regular intervals, designed to fuel public debate and to develop more progressive outlooks as regards both the general public and specific target groups;
  - (v) instigating and accompanying initiatives, setting examples and opening up the way in practice in the various areas of decision-making and thereafter developing programmes designed to generalise effective action;
  - (vi) developing an appropriate framework, where necessary encompassing specific measures, and encouraging the balanced participation of men and women in decision-making in the political, economic, social and cultural fields;

<sup>(1)</sup> OJ C 142, 31.5.1991, p. 1.



3. CALLS UPON the institutions and bodies of the European Communities:
  - (a) to implement measures, in their capacity as employers and on the basis of a review, promoting the balanced recruitment of men and women and, *inter alia*, by promotion and training actions, enabling balanced participation in decision-making duties to be achieved;
  - (b) to evaluate the results thereof periodically and have them published;
4. CALLS UPON the Commission:
  - (a) to step up its information and awareness effort and its efforts to promote research and to introduce pilot schemes to implement the balanced participation of men and women in decision-making;
  - (b) — to take account of this resolution in its fourth action programme on equal opportunities for men and women;
    - to draw up, taking account of that fourth action programme, a draft recommendation to be submitted to the Council aimed at promoting the balanced participation of men and women in decision-making;
5. CALLS UPON both sides of industry to step up their efforts to ensure the balanced participation of men and women in decision-making bodies;
6. RECALLS the discussions held and the initiatives taken within the Council in the past on the topics dealt with in this resolution;
7. UNDERTAKES TO conduct regular discussions on the topics covered by this resolution.

**RESOLUTION OF THE COUNCIL AND OF THE REPRESENTATIVES OF  
THE GOVERNMENTS OF THE MEMBER STATES MEETING WITHIN THE  
COUNCIL (94/C 368/02)**

**of 6 December 1994**

**on equal participation by women in an employment-intensive economic growth strategy  
within the European Union**

THE COUNCIL OF THE EUROPEAN UNION  
AND THE REPRESENTATIVES OF THE  
GOVERNMENTS OF THE MEMBER STATES  
MEETING WITHIN THE COUNCIL,

Having regard to the Treaty establishing the European  
Community,

Whereas the Council directives on equal treatment for  
men and women have made an essential contribution  
to improving the position of women;

Whereas Directives 75/117/EEC<sup>(1)</sup>, 76/207/EEC<sup>(2)</sup>,  
79/7/EEC<sup>(3)</sup> and 86/613/EEC<sup>(4)</sup> adopted with a view  
to harmonising the living and working conditions of  
men and women and promoting equal treatment of  
men and women are of considerable importance in this  
context;

Whereas the Community action programmes on equal  
opportunities for women and men covering the periods  
1982 to 1985, 1986 to 1990 and 1991 to 1995, together  
with the undertakings entered into in this context and  
in several related areas, constitute positive contribu-  
tions to promoting equality of opportunity;

Whereas implementation of the principle of equal pay  
for equal work or work of the same value provided for  
in Article 119 of the Treaty as well as of the resulting  
principle of equality, in accordance with Community  
provision, is an essential feature of the construction  
and operation of the common market;

Whereas the harmonisation of the living and working  
conditions of men and women is essential in the inter-  
ests of equitable economic and social development;  
whereas, at its meetings in Madrid and Strasbourg, the  
European Council stressed the need to pay as much  
attention to economic and social aspects;

Whereas earlier efforts made in particular in the areas  
of awareness, education and training and the aid avail-  
able under the European Social Fund have created con-  
ditions favourable to the pursuit of more ambitious fu-  
ture objectives;

Whereas, pursuant to Article 2 of the Treaty, one of the  
tasks of the Community is to promote a high level of  
employment;

Whereas provision should be made, while respecting  
the responsibilities of Member States and bearing in  
mind the characteristics of the labour market structure  
in each Member State, including the different types of  
work, for a sufficient supply of full-time and/or part-  
time work for both men and women;

Whereas an effective policy of equal opportunities pre-  
supposes an integrated, overall strategy allowing for  
better organisation of working hours and greater flex-  
ibility, and for an easier return to working life; whereas  
a strategy of this type must cover qualification oppor-  
tunities targeted at women and the promotion of self-  
employment,

I

1. Recall that the legal instruments of the Community  
constitute the necessary basis for the development  
of Community action, and emphasise the role of  
the Commission as the guardian of the Treaties;
2. Stress that:
  - (a) equal opportunities depend on men and  
women being able to support themselves by  
taking up paid employment;
  - (b) Europe needs a high level of skills;
  - (c) current demographic trends already suggest  
that the growing number of highly educated  
women provides a hitherto insufficiently ex-  
ploited source of skills and innovative capacity  
which will have to be developed and used  
more intensively;
  - (d) the female unemployment rate in most  
Member States far exceeds the rate for men,  
particularly where long-term unemployment  
is concerned;
  - (e) while the level of female employment has  
risen in recent years at Union level, women are  
still over-represented in the less skilled and  
lower paid jobs which offer less security and  
are concentrated in a small number of employ-  
ment sectors;

<sup>(1)</sup> OJ L 45, 19.2.1975, p. 19.

<sup>(2)</sup> OJ L 39, 14.2.1976, p. 40.

<sup>(3)</sup> OJ L 6, 10.1.1979, p. 24.

<sup>(4)</sup> OJ L 359, 19.12.1986, p. 56.

- (f) women are under-represented in management posts and in new areas of employment requiring a high level of technical skills;
  - (g) women wishing to join the labour market face specific structural and practical difficulties;
3. Confirm that if the internal market is to continue to develop dynamically and notably if new jobs are to be created, positive measures in particular will have to be taken to promote equal opportunities between men and women;
  4. Put forward against this background a number of important objectives without wishing to foreclose discussion within the Union:
    - (a) facilitating access by women to the labour market and their progress up the career ladder, in particular by improving opportunities to gain qualifications;
    - (b) overcoming the sex-based segregation of the labour market;
    - (c) promoting the employment of women in decision-making posts in economic, social and political circles and institutions, with the aim of achieving equal employment;
    - (d) removing the discrepancy between men's and women's pay;
    - (e) promoting full-time and part-time work on a voluntary basis;
    - (f) improving the organisation and flexibility of working hours;
    - (g) promoting self-employment, and, in particular the creation and recovery of businesses;

*Improving the flexibility of working hours*

5. Note, while acknowledging the important role and responsibilities of the two sides of industry in this area, that improving the organisation and flexibility of working hours within the framework of an active employment policy:
  - (a) is both a necessity as regards commercial management and the national economy and a social requirement which will offer both men and women an opportunity to reconcile their work responsibilities with their family obligations and personal interests;
  - (b) must be underpinned by adequate structures, such as child-care services;
  - (c) can have positive implications for employment;
6. Are concerned that the labour market is segregated on the basis of sex, particularly in the area of part-time work;

7. Believe, to this end, that it is necessary to:
  - (a) introduce flexibility of working hours into working arrangements in both the public and the private sectors;
  - (b) make flexible working arrangements possible in a growing number of areas of employment, qualified jobs, as far as possible, included;
  - (c) use the increased flexibility of working hours in such a way as to have a positive effect on employment;
  - (d) organise part-time work on a voluntary basis for men and women in order to break down the sex-based segregation of the labour market;
  - (e) instruct personnel managers in the organisation of working time and in questions involving work preoccupations, with a view to encouraging equal opportunities;

*Europe needs a high level of skills*

8. Note that:
  - (a) new technologies presuppose a high level of skills on the part of workers; it is precisely these technologies which require a basic level of training which can be built on, and continuing training;
  - (b) the number of training posts available remains largely based on sex and, together with the sex-based obstacles which inhibit access to work and to career advancement, continues to prevent any extension of the range of jobs open to women;
9. Stress that if women are to be ready to meet future challenges and to develop their potential in a wide range of jobs at all levels, it is essential that:
  - (a) greater numbers of women be given training in non-traditional jobs, particularly technical ones, and have an improved chance of finding work;
  - (b) women be prepared for positions of responsibility and for new sectors of employment, in particular in the technical sphere, by means of specific measures which will provide young women with role models;
  - (c) the traditionally female jobs be modernised and upgraded and the possibilities for promotion improved;
  - (d) the training and vocational training possibilities offered be better tailored to the needs of women within an adequate structural framework (e.g. childcare) and continuing career and professional development planning encouraged;

- (e) women be offered specific further training which will open up new career prospects to them, particularly in rural areas particularly affected by structural change;
- (f) women benefit adequately from national and Community assistance measures, taking into account the proportion of women in all target groups (e.g. young people without training, the unemployed, the long-term unemployed);
- (g) national and transnational strategies designed to combine activities to improve vocational training and the job opportunities for women receive effective support at various levels with a view to putting into practice new prospects and innovations, particularly within undertakings;

*Facilitating the continued entry and re-entry of women into the labour market*

10. Stress that it is therefore advisable to

- (a) maintain the flow of women into the labour market, and
- (b) facilitate their return to work after a career break for family reasons by offering opportunities for guidance and retraining;

*Encouraging self-employment*

11. Note that:

- (a) in a number of Member States a considerable proportion of businesses are started up by women, and that the creation and recovery of businesses by women can have a positive effect on employment;
- (b) for many women, setting up a business means escaping from unemployment while at the same time creating jobs for others;

12. Are convinced that, consequently:

- (a) business creation or recovery programmes should take particular account of the specific needs of women and offer them relevant opportunities for guidance;
- (b) the conditions laid down in business creation or recovery programmes should be examined to see whether they would be equally relevant to action in the services sector;
- (c) chambers of commerce, banks, administrative bodies and local authorities:
  - should cooperate to pinpoint needs and the possibilities on offer for guidance and re-training so that women who wish to create or recover a business are able to do so, particularly in the framework of new job-

creation measures in regions where development has lagged behind,

- should take account of the fact that many women set up businesses gradually (for instance, beginning as a side-line);

II

1. INVITE THE MEMBER STATES to:

- (a) develop policies for reconciling the obligations of family and work, including measures to encourage and facilitate greater involvement by men in domestic life;
- (b) recognise that, apart from the general aim of a high level of employment, measures aimed at promoting the flexibility of working hours, encouraging voluntary part-time work and improving the skills level and their support for the creation or recovery of businesses, as outlined by the Commission in its White Paper on growth, competitiveness and employment, must for the sake of equal treatment, be of benefit to women as well as men;
- (c) make use of the discussions held on the implementation of the said White Paper to increase the integration of policies to help women into the economic, financial, social and labour-market policies of the Union and its Member States while at the same time developing new actions thanks to specific programmes aimed at women and giving effective support to interdisciplinary strategies;
- (d) support the Commission in its preparation of the fourth programme of Community medium-term action for equal opportunities for women and men from 1996 to 2000;
- (e) take full account of the responsibilities and powers of both sides of industry in this area;

2. INVITE THE TWO SIDES OF INDUSTRY to:

- (a) hold collective bargaining on the subject of equal opportunities and equal treatment by endeavouring in particular to ensure that, in undertakings and in the various occupational sectors, the introduction and organisation of flexible working hours and voluntary part-time work and the return to work are facilitated;
- (b) ensure that women are adequately represented on in-service training courses in undertakings;
- (c) continue and step up the social dialogue on how work and family responsibilities are to be reconciled as well as on the problem of protecting the dignity of men and women at the work place;

- (d) press during collective bargaining for equal pay and the abolition of discrimination based on sex — where it exists — in pay or job-classification scales;
- (e) take all necessary steps to increase the representation of women on decision-making bodies;

3. INVITE THE COMMISSION:

- (a) in preparation for the fourth action programme on equal opportunities for women and men (1996 to 2000):
  - to take a fresh, closer look at the objective of equality between men and women with

an eye to an employment-intensive economic growth strategy,

- to develop initiatives designed to improve flexibility, promote part-time work and the acquisition of new skills or qualifications and encourage the creation or recovery of businesses;

- (b) when drawing up and implementing the policies and action programmes in the employment field, to ensure that the goals of equality of opportunity and equal treatment continue to take priority, and pursue with greater intensity the action already initiated.

# COUNCIL RESOLUTION (94/C 231/01)

of 22 June 1994

## on the promotion of equal opportunities for men and women through action by the European Structural Funds

THE COUNCIL OF THE EUROPEAN UNION,

1. Recalls that the principle of equal opportunities for men and women on the labour market is an objective of the European Union and that structural action must contribute to the achievement of that objective, within the meaning of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments<sup>(1)</sup>;
2. Recalls that the adoption of measures intended to support the promotion of equal opportunities for men and women on the labour market shall be undertaken in accordance with the responsibility of Member States arising from the rules in force concerning the Structural Funds;
3. Recalls that the promotion of equal opportunities for men and women on the labour market is one of the four measures under Objective 3 throughout the European Union, as provided for in Article 1 (1) (d) of Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund<sup>(2)</sup>;
4. Recalls that women experience serious and particular difficulties in the labour market;
5. Confirms its wish that the declared principle of equal opportunities for men and women should be promoted, in particular through all the structural measures taken in the Member States;
6. Invites the Member States:
  - (a) to contribute towards ensuring that due account is taken of promoting the principle of equal opportunities for men and women on the labour market in measures co-financed by the European Structural Funds, in particular the European Social Fund;
  - (b) to contribute to the adoption of appropriate measures to support the promotion of equal opportunities for men and women on the labour market in the measures financed by the European Structural Funds so as to enable women to take advantage of the prospective benefits on an equal footing with men;
  - (c) to help to ensure that specific measures targeted at women are laid down with appropriate financial appropriations with the aim of improving the position of women, and to promote at local, regional, national and transnational level, equal opportunities for men and women in every sector of economic activity and in all areas linked directly or indirectly to the labour market, by making use, in particular, of the achievements of the Community initiative NOW;
  - (d) to use every appropriate means to inform, mobilise and encourage competent bodies and social and economic partners, within the meaning of Article 4 (1) of Regulation (EEC) No 2052/88, so that full account is taken of the dimension of equal opportunities for men and women in measures co-financed by the European Structural Funds;
  - (e) to use every appropriate means to define and promulgate the policy of promoting equal opportunities for men and women through the action of the European Structural Funds;
  - (f) to help to ensure that the present point is implemented, within the existing national monitoring and assessment structures.
7. Invites the Commission:
  - (a) to continue its efforts to put into effect the policy of promoting equal opportunities for men and women through action by the European Structural Funds, in particular by the European Social Fund and Community initiatives;
  - (b) to facilitate implementation of this policy by means of technical assistance, in particular within the framework of the principle of partnership;
  - (c) to take all appropriate measures to further this policy;
  - (d) to take account of the objectives mentioned in point 6 when implementing Community initiatives.

<sup>(1)</sup> OJ L 185, 15.7.1988, p. 9. Regulation as amended by Council Regulation (EEC) No 2081/93 (OJ L 193, 31.7.1993, p. 5).

<sup>(2)</sup> OJ L 374, 31.12.1988, p. 21. Regulation as amended by Council Regulation (EEC) No 2084/93 (OJ L 193, 31.7.1993, p. 39).

## COUNCIL RESOLUTION

of 29 May 1990

on the protection of the dignity of women and men at work

(90/C 157/02)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Whereas unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work, including the conduct of superiors and colleagues, is unacceptable and may, in certain circumstances, be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions<sup>(1)</sup>, a view supported by case-law in some Member States;

Whereas, in accordance with the Council recommendation of 13 December 1984 on the promotion of positive action for women<sup>(2)</sup>, many Member States have carried out a variety of positive action measures and actions having a bearing, *inter alia*, on respect for the dignity of women at the workplace;

Whereas the European Parliament, in its resolution of 11 June 1986 on violence against women<sup>(3)</sup>, has called upon

national authorities to strive to achieve a legal definition of sexual harassment and has called upon national governments, equal opportunities committees and trade unions to carry out concerted information campaigns to create a proper awareness of the individual rights of all members of the labour force;

Whereas the Council is anxious to take account of the study which found that sexual harassment is a serious problem for many working women in the European Community and is an obstacle to the proper integration of women into the labour market<sup>(4)</sup>;

Whereas the Advisory Committee on Equal Opportunities between Women and Men, in its opinion of 20 June 1988, has unanimously recommended that there should be a recommendation and code of conduct on sexual harassment in the workplace covering harassment of both sexes,

1. AFFIRMS, that conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work, including conduct of superiors and colleagues, constitutes an intolerable violation of the dignity of workers or trainees and is unacceptable if:

<sup>(1)</sup> OJ No L 39, 14. 2. 1976, p. 40.

<sup>(2)</sup> OJ No L 331, 19. 12. 1984, p. 34.

<sup>(3)</sup> OJ No C 176, 14. 7. 1986, p. 79.

<sup>(4)</sup> 'The Dignity of Women at Work, Report on the problem of sexual harassment in the Member States of the European Communities, October 1987' (ISBN 92-825-8764-9).

- (a) such conduct is unwanted, unreasonable and offensive to the recipient;
- (b) a person's rejection of, or submission to, such conduct on the part of employers or workers (including superiors or colleagues) is used explicitly or implicitly as a basis for a decision which affects that person's access to vocational training, access to employment, continued employment, promotion, salary or any other employment decisions;
- and/or
- (c) such conduct creates an intimidating, hostile or humiliating work environment for the recipient;
2. CALLS ON the Member States to:
1. develop campaigns of information and awareness for employers and workers (including superiors and colleagues), taking account of the best practice which exists in various Member States, to counter unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work;
  2. promote awareness that the conduct described in paragraph 1 may be, in certain circumstances, contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Council Directive 76/207/EEC;
  3. remind employers that they have a responsibility to seek to ensure that the work environment is free from:
    - (a) unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work;
    - (b) victimization of a complainant or of a person wishing to give, or giving, evidence in the event of a complaint;
4. develop appropriate positive measures in accordance with national legislation in the public sector which may serve as an example to the private sector;
5. consider that both sides of industry, while respecting their autonomy and subject to national traditions and practices, could examine in the context of the collective bargaining process the question of including appropriate clauses in agreements, aimed at achieving a work environment as described in paragraph 3;
3. CALLS ON the Commission to:
1. continue its efforts to inform and make aware employers, workers (including superiors and colleagues), lawyers and members of courts, tribunals and other competent authorities of the importance of the concept set out in paragraph 1 and of the fact that, in certain circumstances, failure to respect this concept may be contrary to the principle of equal treatment within the meaning of Articles 3, 4 and 5 of Directive 76/207/EEC;
  2. draw up, by 1 July 1991, in consultation with both sides of industry and following consultation with the Member States and national equal opportunities authorities, a code of conduct on the protection of the dignity of women and men at work which will provide guidance, based on examples and best practice in the Member States, on initiating and pursuing positive measures designed to create a climate at work in which women and men respect one another's human integrity.
4. CALLS ON the institutions and organs of the European Communities also to:
1. respect the concept set out in paragraph 1;
  2. develop positive action measures aimed at achieving a work environment as described in paragraph 2 (3).



# COUNCIL RESOLUTION (88/C 333/01)

of 16 December 1988

## on the reintegration and late integration of women into working life

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Whereas a considerable number of women give up work on marriage or on childbirth on account of the difficulty of reconciling their working life and family life; whereas many young women are not integrated into working life, in particular for family reasons;

Whereas women who wish to return to work or make a late entry into employment often encounter problems and could become long-term unemployed;

Whereas the labour market offers better opportunities for skilled labour; whereas many women who wish to return to work or make a late entry into employment do not have the qualifications to do so;

Whereas some Member States have carried out research/measures to support the return of women to work;

Whereas the reintegration and late integration of women into working life is a problem throughout the Community, which also requires solutions at Community level;

Whereas all Community citizens must benefit from the large internal market; whereas the implementation of the social dimension of the internal market necessitates effective measures for the reintegration and late integration of women into working life,

HEREBY ADOPTS THIS RESOLUTION:

I. The Council calls on the Member States to take the following measures:

1. build up information on the labour market situation, especially on occupations which do not offer many prospects of employment and occupations which will be in demand in the future, in particular those connected with new technology;

2. ensure that the staff of guidance, training and placement services are qualified to deal with the

specific problems of women who wish to return to work or make a late entry into employment (hereinafter referred to as 'the women concerned');

3. ensure that the women concerned enjoy the best conditions, in so far as those conditions are applicable, of access to vocational training and integration into working life;

4. organise, where appropriate in cooperation with both sides of industry, vocational training programmes or other measures which meet the specific needs of the women concerned;

5. promote measures with a view to helping women during preparation for reintegration or late integration into working life, in particular to build up their self-confidence and develop their basic technical skills;

6. promote measures to monitor closely the reintegration and late integration of women during a transitional period, so as to ensure that reintegration and late integration do not end in failure;

7. encourage as far as possible child-minding initiatives organised in a way which takes account of the professional situation of parents and appropriate initiatives to assist disabled and elderly persons in order to lessen the family responsibilities of the women concerned;

8. encourage steps designed to see that breaks in women's careers are accompanied by appropriate measures, for example maintaining skills or keeping up contacts between them and their former employers, *inter alia* with a view to possible reintegration;

9. develop cooperation between national, regional and local authorities, women's organisations, organisers of training programmes and other interested bodies;

10. build up quantitative and qualitative data enabling all the problems and needs of the women concerned to be identified as far as possible.

II. The Council calls on the Commission to take the following measures:

1. consolidate the studies carried out in the Member States in the field of the reintegration and late integration of women into working life;
  2. list and evaluate the measures taken in the Member States in this field;
  3. take account of the women concerned when compiling Community statistics;
  4. take account, within the rules of the European Social Fund, of measures for the reintegration and late integration of women into working life;
  5. encourage vocational training measures and pilot programmes to help the women concerned;
  6. facilitate the exchange of experience between Member States regarding the measures taken by them for the benefit of the women concerned, and disseminate information concerning those measures;
  7. forward to the Council, on the basis of the information supplied by the Member States, a report on the implementation of this Resolution not later than five years after its adoption.
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## SECOND COUNCIL RESOLUTION (86/C 203/02)

of 24 July 1986

### on the promotion of equal opportunities for women

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaties establishing the European Communities,

Having regard to the draft resolution submitted by the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas, in order to promote equal opportunities for women, various measures have been taken at Community level, in particular the adoption by the Council of Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women<sup>(4)</sup>, Directive 75/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions<sup>(5)</sup> and Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security<sup>(6)</sup>;

Whereas these Community legal instruments constitute the basis needed for the development of Community action;

Whereas the 1982 to 1985 action programme and the commitments entered into in that connection, in particular the Council resolution of 12 July 1982 concerning the promotion of equal opportunities for women<sup>(7)</sup>, the Council resolution of 7 June 1984 on action to combat unemployment amongst women<sup>(8)</sup> and the Council recommendation of 13 December 1984 on the promotion of positive action for women<sup>(9)</sup>

and those adopted in certain related areas<sup>(10)</sup>, constitute positive contributions to the promotion of equal opportunities;

Whereas, however, inequality persists and seems likely to increase in the present economic climate;

Whereas efforts already under way must be intensified and developed with a view to achieving genuine equality, so that women can approach social, technological and occupational change on an equal footing with men;

Whereas the European Parliament has frequently urged the need for a comprehensive and wide-ranging policy to promote equal opportunities for women;

Whereas it should be noted with approval that the Commission firmly believes that the programme's objective of realising in practice equal opportunities in economic, social and cultural life can and should be achieved without imposing any unreasonable burden on the economy and undertakings;

Considering the conclusions of the European Council of 2 and 3 December 1985 on the matter,

1. Points to the directives, recommendations, resolutions and other instruments adopted concerning the promotion of equal opportunities for women;
2. Recalls the proposals for directives already submitted by the Commission, and agrees to continue its efforts to seek solutions to the problems involved;
3. Confirms the need to develop and intensify action at Community and national level through a systematic and coherent wide-ranging policy designed to eliminate *de facto* inequalities, whatever the

(1) OJ C 356, 31.12.1985, p. 28.

(2) Opinion delivered on 13 May 1986 (not yet published in the Official Journal).

(3) Opinion delivered on 24 April 1986 (not yet published in the Official Journal).

(4) OJ L 45, 19.2.1976, p. 19.

(5) OJ L 39, 14.1.1976, p. 40.

(6) OJ L 6, 10.1.1979, p. 24.

(7) OJ C 186, 21.7.1982, p. 3.

(8) OJ C 161, 21.6.1984, p. 4.

(9) OJ L 331, 19.12.1984, p. 34.

(10) Particularly:

— Council resolution of 2 June 1983 concerning vocational training measures relating to new information technologies (OJ C 166, 25.6.1983, p. 1),

— Council resolution of 11 July 1983 concerning vocational training policies in the European Community in the 1980s (OJ C 193, 20.7.1983, p. 2),

— Resolution of the Council and the Ministers for Education meeting within the Council of 19 September 1983 on measures relating to the introduction of new information technology in education (OJ C 256, 24.9.1983, p. 1),

— Council resolution of 23 January 1984 on the promotion of employment for young people (OJ C 29, 4.2.1984, p. 1),

— Resolution of the Council and the Ministers for Education meeting within the Council of 3 June 1985 containing an action programme on equal opportunities for girls and boys in education (OJ C 166, 5.7.1985, p. 1).

economic situation, and to promote genuine equality of opportunity;

4. Supports the broad outlines of the Commission communication concerning a new medium-term programme on equal opportunities for women (1986 to 1990) and supports that programme's objective of realising in practice equal opportunities in economic, social and cultural life; reiterates in this context, the importance of promoting job creation;

5. Calls on the Member States to take appropriate action on the basis of, *inter alia*, the elements of the Commission communication referred to in point 4 of this resolution and in particular to:

— ensure effective application of existing equal-treatment legislation, particularly through the systematic provision of information, the development of suitable mechanisms to carry through and prepare provisions on equal treatment, and the examination of all aspects of the problems relating to the establishment of proof in this regard,

— develop comprehensive and coordinated action in the fields of education and training in order to create a better balance between men and women in the various types of teaching establishment and to widen career choices to include sectors and trades of the future, in particular those concerned with new technologies, enterprise creation and self-employed occupations, in accordance with the resolution of 3 June 1985,

— adopt adequate measures to increase the number of women in jobs linked to the introduction of new technologies, with a view to promoting desegregation and as a response to the resulting changes,

— develop and intensify specific action promoting the employment of women and, in particular, support local initiatives and adopt measures to ensure that women have equal opportunities to set up businesses, particularly cooperatives, as well as measures to support self-employed women, including those working in agriculture,

— adopt a more systematic policy to promote the presence of both sexes in employment at all levels, particularly through the development of positive action in all fields, the revision of protective legislation which is no longer justified and the search for specific solutions for the most disadvantaged categories,

— review social-protection and social-security provisions, taking into account the changing place of women in employment,

— develop measures to encourage the sharing of family and career responsibilities through measures to increase awareness and steps to adapt and reorganise working time, with due regard for the responsibilities of both sides of industry, development of the social infrastructure, particularly child-minding facilities, and of adequate solutions for groups and persons who particularly need them,

— launch or encourage at all appropriate levels systematic and wide-ranging information and awareness campaigns to highlight the positive aspects of equality, thereby promoting a change in attitudes, especially through the media and by targeting a variety of groups, in order to reach all participants in political, social, occupational and educational life, particularly women themselves,

— encourage both sides of industry to take steps to secure effective equality of opportunity and efficacy of positive measures at the workplace,

— actively promote greater participation by women in the public and private sectors, particularly in posts for responsibility, and in decision-making bodies;

6. Will continue to promote consistency between specific measures to promote equal opportunities and overall economic and social policy at both Community and national level and instructs the Commission to keep a check on the consistency of its measures at Community level while encouraging positive action to help women within the limits of the means available and avoiding any measure which might discourage women from joining the job market;

7. Agrees to develop more systematic cooperation on Member States' policies and actions on equal treatment, and instructs the Commission to organise such cooperation with all bodies concerned, such as national authorities, equal-treatment bodies and committees, both sides of industry;

8. Requests the Commission to prepare a progress report and an assessment of the implementation of this programme by 1 January 1991 and accordingly invites the Member States to forward the necessary information to the Commission before 1 January 1990.

RESOLUTION (85/C 166/01) OF THE COUNCIL AND OF THE MINISTERS  
FOR EDUCATION, MEETING WITHIN THE COUNCIL,

of 3 June 1985

containing an action programme on equal opportunities for girls and boys in education

THE COUNCIL AND THE MINISTERS FOR  
EDUCATION, MEETING WITHIN THE  
COUNCIL,

Having regard to the Treaties establishing the Euro-  
pean Communities,

Having regard to the resolution of the Council and of  
the Ministers for Education, meeting within the Coun-  
cil, of 9 February 1976 comprising an action pro-  
gramme in the field of education<sup>(1)</sup>,

Having regard to Council Directive 76/207/EEC of 9  
February 1976 on the implementation of the principle  
of equal treatment for men and women<sup>(2)</sup> and in par-  
ticular Article 2 (4) and Articles 3 and 4 thereof,

Having regard to the Council resolutions and those of  
the Council and of the Ministers for Education, meet-  
ing within the Council, dealing with equal opportuni-  
ties for women<sup>(3)</sup> (4) (5) (6) (7),

Having regard to the Council Recommendation  
84/635/EEC of 13 December 1984 on the promotion  
of positive action for women<sup>(8)</sup>,

Having regard to the various European Parliament  
resolutions in favour of women<sup>(9)</sup>, and in particular the  
resolution of 17 January 1984<sup>(10)</sup> on the situation of  
women in Europe,

Bearing in mind that educational establishments are a  
particularly suitable forum for effective action to  
achieve equal opportunities for girls and boys;

Whereas education and vocational training are among  
the prerequisites for achieving equal opportunities for  
men and women in working life and whereas education  
should therefore contribute to eradicating stereotypes,  
encourage acceptance of the principles of fair sharing

(1) OJ C 38, 19.2.1976.

(2) OJ L 39, 14.2.1976.

(3) Resolution on the promotion of equal opportunities for women  
(OJ C 186, 21.7.1982).

(4) Resolution concerning vocational training measures relating to  
new information technologies (OJ C 166, 25.6.1983).

(5) Resolution concerning vocational training policies in the  
European Community in the 1980s (OJ C 193, 20.7.1983).

(6) Resolution on measures relating to the introduction of new in-  
formation technology in education (OJ C 256, 24.9.1983).

(7) Resolution on action to combat unemployment amongst  
women, and in particular section II(b) thereof (OJ C 161,  
21.6.1984).

(8) OJ L 331, 19.12.1984.

(9) OJ C 50, 9.3.1984 and OJ C 149, 14.6.1982.

(10) OJ C 50, 9.3.1984.

of family and occupational responsibilities and prepare  
young people adequately for working life;

Bearing in mind the importance of involving all par-  
ticipants in the educational process in implementation  
of any policy to foster equal opportunities in order  
to achieve the necessary change in mentalities and  
attitudes;

Whereas the decisive influence of parents is widely  
recognised in connection with stereotype-formation,  
the perception of social roles of men and women and  
also as regards the duration of schooling and educa-  
tional and career choices;

Bearing in mind the commitment of teachers and their  
associations to the achievement of equal opportunities  
for girls and boys in the school system;

Whereas, in addition to policies concerning equal  
access for girls and boys to all forms and levels of  
education, positive action is necessary to bring  
about equality in practice;

Taking note of the report of the conference on equality  
of opportunity for girls and boys in education (Brus-  
sels, 27 and 28 November 1984), organised by the  
Presidency in conjunction with the Commission,

HEREBY ADOPT THIS RESOLUTION:

I

The Council and the Ministers for Education, meeting  
within the Council, give their agreement to an action  
programme which will be implemented within the  
scope of constitutional possibilities and having regard  
to the economic, social and cultural context of each  
Member State, to the funds available and to their re-  
spective educational systems. The measures envisaged  
under this programme are necessary in order to:

- ensure equal opportunities for girls and boys  
for access to all forms of education and all  
types of training in order to enable each indi-  
vidual to develop his or her own aptitudes to  
the full;
- enable girls and boys to make educational and  
career choices, in full knowledge of the facts  
and in good time, affording them the same

possibilities as regards employment and economic independence;

- motivate girls and boys to make non-traditional choices and to follow courses leading to qualifications so that they may have access to a far more diversified range of jobs;
- encourage girls to participate as much as boys in new and expanding sectors, within both education and vocational training, such as the new information technologies and biotechnology.

The Council and the Ministers for Education, meeting within the Council, accordingly agree that these objectives can be attained if the educational and career choices of girls and boys are made without any restriction as to sex.

The action programme is as follows:

1. *Promoting awareness among all the participants in the educational process<sup>(1)</sup> of the need to achieve equal opportunities for girls and boys*

- (a) Encouraging the eradication of sex stereotyping through coordinated action to raise awareness such as information campaigns, seminars, lectures, debates and discussions;
- (b) encouraging exchanges of information on innovative projects in this field and ensuring that it is as widely disseminated as possible;
- (c) preparing and distributing at national level texts bringing together results of experience, recommendations and practical guidance aimed at achieving equal opportunities.

2. *Educational and vocational guidance as a service to all pupils to encourage girls and boys to diversify their career choices*

- (a) Ensuring that information is given as early as possible on working life and delay the introduction of options, since premature specialisation leads to a preference for traditional course options and maintains segregation;

ensuring that information, counselling and guidance services are available to all pupils throughout their school career and in particular at all the key points at which course options are decided;

making it possible to switch courses during the school career, e.g. by means of bridging classes;

(b) encouraging diversification of girls' and boys' educational and career choices, particularly by:

- introducing both girls and boys to new technology from the end of primary school in all educational establishments,
- training guidance officers in the specific aspects of educational and career guidance relating to girls (encouraging diversity of choice, in particular new careers connected with new technologies, and providing follow-up and support for girls who take non-traditional options, etc.),
- ensuring effective cooperation between school guidance services and parents and teachers as well as between school and vocational guidance, training and job-vacancy services.

3. *Opening up schools to working life and the outside world*, in particular by organising, at all levels, pupil contact with working life, especially where non-traditional work for women is being promoted, and with the outside world in general (associations of young people, occupational bodies, etc.).

4. *Extending the possibilities for effective access by both girls and boys to all vocational training options and supporting, through suitable measures, girls and boys who have chosen non-traditional openings.*

5. *Including the question and pedagogics of equal opportunity in teachers' initial and in-service training.* Teachers' courses could for instance include the components needed to encourage girls to take up the natural sciences and mathematics, and information on the vocational opportunities offered by these disciplines.

6. *Reinforcing co-educational practices in mixed educational establishments*

In mixed educational establishments encouraging all pupils to participate in school and extra-mural activities, including activities traditionally considered as being either for the male or female sex and stimulate in particular equal participation by girls and boys in technical and scientific options.

7. *Developing a balance between men and women holding positions of responsibility in education*

Encouraging children to develop a positive perception of equality of the sexes by promoting a balanced distribution of men and women working in the educational sector; to this end, encourage action aimed at improving the balance in terms of postings, promotion and training. This improved

<sup>(1)</sup> In particular, children, parents, inspectors, heads of educational establishments, teacher-training staff, teachers, educational counsellors, guidance officers, local authorities.

balance should cover both the subjects taught and the levels of the posts occupied.

8. *Eradicating persistent stereotypes from school textbooks, teaching material in general, assessment materials and guidance material*

(a) Creating structures or using existing structures for equal opportunities for girls and boys with a view to establishing criteria and drawing up recommendations aimed at eliminating stereotypes from school books and all other teaching and educational material, with involvement of all the parties concerned (publishers, teachers, public authorities, parents' associations);

(b) encouraging gradual replacement of material containing stereotypes by non-sexist material.

9. *Special measures helping the underprivileged, particularly girls who receive very little encouragement from their families to pursue school activities and the children of migrant workers (prevention of illiteracy, language training). These measures are aimed at pupils, teachers and parents. They are particularly concerned with informing migrant workers of the educational options available in the host country.*

10. *Introducing specific measures to encourage the promotion of programmes for equal opportunities for girls and boys, with a view to:*

— encouraging the implementation in schools of specific measures based on guidelines agreed at national level;

— drawing up annual reports on action taken;

— encouraging the training of school advisers specifically appointed to make recommendations, give advice, suggest initiatives and assess measures taken;

— reviewing the text of regulations (such as circulars) with a view to eradicating discrimination and stereotypes from them;

— encouraging the use of existing agencies with expertise in matters concerning equal opportunities for girls and boys in monitoring progress in this area.

nected with education, training and employment policy, and in particular promote a spirit of enterprise among girls as well as boys in order to facilitate their transition from school to working life,

— extend the programme of study visits to include teacher training staff, guidance officers, inspectors and administrators with particular responsibility for equal opportunities for girls and boys at school, in order to broaden their practical and vocational experience,

— provide supplementary data, particularly through studies on equal opportunities for girls and boys in education, circulate the results and improve the exchange of information on positive action by using the Eurydice network,

— ensure close cooperation with teachers' associations organised at European level in implementing and promoting measures for equal opportunities for girls and boys,

— in collaboration with parents' associations organised at European level, launch information campaigns on the choice of school courses and the division of tasks between girls and boys and aimed at eliminating stereotypes,

— set up a Working Party composed of those having responsibility at national level for matters concerning equal opportunities for girls and boys in education and of representatives of the competent bodies (experts, equal opportunities boards) to pool Member States' experience and follow up and assess the implementation of the action programme; this Working Party to report to the Education Committee,

— support, on the basis of specific criteria (e. g. transferability to other Member States), certain action undertaken by Member States, particularly the launching of innovatory programmes or projects, and actions which foster exchanges between Member States,

— support Member States in drawing up and circulating practical recommendations aimed at achieving equal opportunities, particularly by preparing Community guidelines.

## II

The Commission of the European Communities will take the necessary measures to:

— promote the principle of equality between girls and boys in all Community action and policies con-

## III

The Council and the Ministers for Education, meeting within the Council, call upon the Commission to give careful consideration, in the framework of the rules governing the Social Fund, to applications relating to

the training of instructors and guidance counsellors undertaken in the context of positive action to ensure equal opportunities for girls and boys in education.

#### IV

The Council and the Ministers for Education, meeting within the Council, call upon the Education Committee to submit, in two years' time, a first progress report on action taken by the Member States and the Community to foster equal opportunities for girls and boys in education.

#### V

Community funding of the action outlined in section II and the extent thereof will be decided in accordance with the Community's budgetary rules and procedures.

#### VI

This Resolution will be forwarded to the European Parliament and to the Economic and Social Committee.



# COUNCIL RESOLUTION (84/C 161/02)

of 7 June 1984

## on action to combat unemployment amongst women

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaties establishing the European Communities,

Having regard to the draft resolution submitted by the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas various actions have been taken at Community level to promote equal opportunities for women, in particular the adoption, by the Council, of Directives 75/117/EEC<sup>(4)</sup>, 76/207/EEC<sup>(5)</sup> and 79/7/EEC<sup>(6)</sup>, concerning equal treatment as between men and women;

Whereas the Council resolution of 12 July 1982 on the promotion of equal opportunities for women<sup>(7)</sup> emphasises in particular the need, in a period of economic crisis, to intensify action undertaken at Community and national level, by the implementation of positive measures in order to achieve equality of opportunity in practice;

Whereas the Council resolutions of 11 July 1983 concerning vocational training policies in the European Community in the 1980s<sup>(8)</sup>, of 2 June 1983 concerning vocational training measures relating to new information technologies<sup>(9)</sup> and of 23 January 1984 on the promotion of employment for young people<sup>(10)</sup> provide for specific measures in favour of women;

Whereas the European Parliament has on several occasions stressed the need to develop Community measures to combat female unemployment;

Whereas female unemployment in the Community, which is noticeably higher than male unemployment, requires the adoption of appropriate measures to

reduce the level of this unemployment and to improve the situation of unemployed women;

Whereas the progressive reduction of the rate of female unemployment must form part of a general reduction of unemployment;

Whereas female unemployment also has special characteristics requiring appropriate measures,

HEREBY ADOPTS THIS RESOLUTION:

### I. General objectives

1. The Council takes note of the Commission communication on unemployment amongst women in the Community.
2. It notes that unemployment amongst women is a worrying aspect of the general employment situation in the Community and can only be resolved satisfactorily within the framework of a general policy designed to achieve economic recovery and employment growth. Given the particular characteristics of female unemployment, it is also necessary to make specific efforts to remove the handicaps affecting the employment of women and to promote equal opportunities on the labour market in order to reduce gradually and significantly the rate of unemployment among women.
3. It emphasises the principles which must underlie the measures to be promoted, namely:
  - the equal right of men and women to work and, by the same token, to acquire a personal income on equal terms and conditions, regardless of the economic situation,
  - the extension of equal opportunities to men and women, in particular on the labour market, in the context of measures to stimulate economic recovery and to promote employment growth,
  - the development of positive measures to correct *de facto* inequalities and thereby improve female employment prospects and promote the employment of both men and women.

### II. Guidelines for action

1. The Council considers that the following guidelines for action in particular should be implemented or continued within the framework of national policies and practices:

(1) OJ C 65, 6.2.1984, p. 8.

(2) Opinion delivered on 22 May 1984 (not yet published in the Official Journal).

(3) Opinion delivered on 23 May 1984 (not yet published in the Official Journal).

(4) OJ L 45, 19.2.1975, p. 19.

(5) OJ L 39, 14.2.1976, p. 40.

(6) OJ L 6, 10.1.1979, p. 24.

(7) OJ C 186, 21.7.1982, p. 3.

(8) OJ C 193, 20.7.1983, p. 2.

(9) OJ C 166, 25.6.1983, p. 1.

(10) OJ C 29, 4.2.1984, p. 1.

(a) in respect of job creation and recruitment:

- ensure that the measures aimed at encouraging the recruitment of additional labour, especially young people, in the private sector, allow for a more balanced representation of men and women, particularly in jobs in which women are under-represented and in skilled jobs,
- focus recruitment premiums, where they exist, on the people at the greatest disadvantage on the labour market, many of whom are women,
- adopt adequate measures to promote increased representation of women, in order to achieve a better balance in the industries of the future, especially the high-technology industries,
- make efforts also in the public sector to promote equal opportunities which can serve as an example, particularly in those fields where new information technologies are being developed,
- endeavour to ensure that initiatives aimed at the reduction and re-organisation of working time make a positive contribution to the promotion of equal opportunities in the area of employment, by permitting *inter alia* greater flexibility in working hours,
- ensure that voluntary part-time work does not lead to increased sexual segregation on the labour market,
- enable women to have equal access to financial and other facilities available for the creation of businesses, particularly in the context of local initiatives to create employment, including those taken on a cooperative basis, which offer women worthwhile employment prospects and working conditions;

(b) to promote, in the fields of education, vocational training and guidance, measures with a view to:

- giving women a wider choice of jobs to enable them to participate more equitably in growth sectors and in the industries of the future,
- ensuring more appropriate qualifications for female workers particularly affected by industrial restructuring and innovation, for those from less-favoured areas, for unemployed women and those seeking to return to work,

— promoting increased representation of women in training programmes in order to achieve a better balance in those sectors where they are under-represented, especially sectors connected with the introduction of new technologies;

(c) adopt the necessary measures to ensure that placement, guidance and counselling services are staffed with skilled personnel in adequate numbers in order to provide a service based on the necessary expertise in the special problems of unemployed women;

(d) improve quantitative and qualitative information on the situation of women on the labour market and the assessment of the impact of policies to combat unemployment on the employment of women in order to be able to monitor progress in the sexual desegregation of employment and identify female unemployment trends more accurately.

2. The Council stresses the importance it attaches to the positive contribution of the European Social Fund to the implementation of these guidelines for action.
3. The Council considers that the principles and guidelines set out above should apply to action undertaken at every level, also by encouraging, where possible, both sides of industry.
4. The Council stresses the importance of accompanying measures, especially regarding social infrastructure and means of encouraging greater sharing of responsibilities in the light of the general objective of improving female employment.
5. The Council asks the Member States to develop, where appropriate in cooperation with the Commission, information campaigns aimed at encouraging the change in attitudes needed to improve equality of opportunity in employment. The Council emphasises the essential role played in this respect, and also as initiators of positive action, by national committees and bodies for the promotion of equal opportunities, which must be able to act as effectively as possible.
6. The Commission is requested to organise an annual exchange of information between Member States on measures taken under this resolution to reduce unemployment among women, and on the means of monitoring, research and assessment.
7. The Council asks the Commission to report to it at regular intervals with a view to taking stock of progress accomplished not later than three years following the adoption of this resolution.

# COUNCIL RESOLUTION (82/C 186/03)

of 12 July 1982

## on the promotion of equal opportunities for women

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the draft resolution presented by the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas various actions have already been undertaken at Community level to promote equal opportunities for women, in particular the adoption, by the Council, on the basis of Articles 100 and 235 of the Treaty establishing the European Economic Community, of Directives 75/117/EEC<sup>(4)</sup>, 76/207/EEC<sup>(5)</sup> and 79/7/EEC<sup>(6)</sup> concerning equal treatment for men and women;

Whereas all these actions, including those supported by the European Social Fund, have played an important part in improving the situation of women;

Whereas, despite the efforts so far made at both Community and national level, actual inequalities in employment persist and may well become worse in the present economic and social conditions;

Whereas, in a period of economic crisis, the action undertaken at Community and national level should be not only continued but also intensified, in particular in order to promote the achievement of equal opportunities in practice through the implementation of *inter alia* positive measures,

Notes the Commission communication concerning a new Community Action Programme on the promotion of equal opportunities for women (1982 to 1985), which covers 'the achievement of equal treatment by strengthening individual rights' and the 'achievement of equal opportunities in practice, particularly by means of positive action programmes';

Welcomes the initiative taken by the Commission;

Approves the general objectives of this communication, namely the stepping up of action to ensure observance of the principle of equal treatment for men and women and the promotion of equal opportunities in practice by positive measures;

Expresses the will to implement appropriate measures to achieve them;

Notes also the comments which have been made on the Commission communication by the various delegations within the Council and which reveal *inter alia* certain characteristics peculiar to national systems;

Asks the Commission to take account of them in the initiatives which it takes within the framework of its powers;

Recalls the efforts which have been and are still being made in this area in the Member States;

Notes that the Commission communication defines specific objectives and joint courses of action, most of which fall within the follow-up to the implementation of the Directives adopted by the Council in the field of equal treatment for men and women;

Considers that, with due regard to the courses of action proposed, these objectives should guide the Community and the Member States in their efforts to apply on a broader basis and to realise in practice, the principle of equal opportunities without discriminating against women whatever the economic situation obtaining;

Emphasises the importance, to this end, of strengthening or setting up national bodies for the promotion of women's employment and equal opportunities;

Recalls the responsibilities which, in the pursuit of these objectives, also devolve upon workers' and employers' organisations;

Confirms the need to take steps to increase public awareness and disseminate information to support the change in attitudes to sharing occupational, family and social responsibilities;

Asks Member States to cooperate fully with the Commission in steps to increase public awareness;

Reaffirms the need to promote the employment of both men and women in all sectors and occupations and a more balanced representation of women at different levels of responsibility at both national and Community level;

(1) OJ C 22, 29.1.1982, p. 7.

(2) OJ C 149, 14.6.1982, p. 54.

(3) OJ C 178, 18.7.1982, p. 22.

(4) OJ L 45, 19.2.1975, p. 19.

(5) OJ L 39, 14.2.1976, p. 40.

(6) OJ L 6, 10.1.1979, p. 24.

Considers that the public sector, including the Community institutions and bodies, should set an example in this respect;

Underlines the desirability of avoiding special rules for the protection of women on the labour market and eliminating such rules in cases where originally well-founded concern for their protection is no longer justified;

Considers that account should be taken of the equal-opportunities dimension in preparing and implementing Community policies likely to affect it;

Asks the Commission to present an interim report by 1 January 1984 on progress achieved and on implementation under the new programme, based in particular on information obtained from the Member States, together with, if appropriate, suitable proposals;

Asks the Member States to send a first report to the Commission by 1 January 1985 on progress accomplished at national level; Notes the undertaking by the Commission to present an initial survey of the action undertaken before the end of 1985.

## **IV. Council Conclusions**



**CONCLUSIONS OF THE COUNCIL AND THE MINISTERS OF EDUCATION  
MEETING WITHIN THE COUNCIL**

of 31 May 1990

**on the enhanced treatment of equality of educational opportunity for girls and boys in the initial  
and in-service training of teachers**

(90/C 162/05)

THE COUNCIL AND THE MINISTERS OF EDUCATION,  
MEETING WITHIN THE COUNCIL,

Having regard to their resolutions concerned with the achievement of equal opportunity in education, particularly that of 3 June 1985 containing an action programme in this field <sup>(1)</sup>,

Taking into account that the Commission guidelines for education and training in the medium term (1989 to 1992) place the issue of equality among the main objectives of the next phase of European educational cooperation and that the conclusions of the Council and Ministers of 6 October 1989 on cooperation and Community policy in the field of education in the run-up to 1993 <sup>(2)</sup> identify equality of access to high-quality education as one of the basic elements for achieving a Europe of training,

Recognizing that the extent to which educational systems effectively deal with issues of equality of opportunity is an important indicator of the quality of the systems themselves,

Reaffirming their commitment to the objective of achieving equality of opportunity for girls and boys in education,

CONCLUDE that:

- teachers have a fundamental role to play in achieving that objective,
- the nature and quality of initial and in-service training of teachers is a major factor influencing the extent to which that objective can be achieved,
- there is a need in the initial and in-service training of teachers to improve their awareness of equal opportunity in education and their skill in promoting it.

AGREE that, within the framework of the specific educational policies and taking into account the structures of each Member State:

- the competent authorities in the Member States should review the existing provision in relation to equality of educational opportunity in teacher education courses and examine, as far as is necessary, how this question could, to a greater extent, permeate the initial and in-service training of teachers or become an integrated component of such training as appropriate,
- the development of women's studies and research on gender issues in appropriate research institutions, in particular in higher education institutions, in the Member States should be encouraged and the links between those involved in such studies and research and those responsible for the training of teachers should be strengthened,
- the training of teacher trainers within the Member States on issues related to equality of educational opportunity should be a priority area, as a means of achieving the best results within the resources available.

NOTE that, in connection with the action programme on equality, a pilot project of action research on equal opportunities in the initial and in-service training of teachers was established and that the results of it will be disseminated in due course.

CALL ON THE COMMISSION:

- to examine ways in which it can supplement and assist actions by the Member States on issues of equality of educational opportunity in the initial and in-service training of teachers,
- to arrange exchanges of information and experience between the Member States concerning examples of good practice in this field,
- to make, in collaboration with its advisory working party on equal opportunity in education, a progress report through the Education Committee to a future meeting of the Council, based *inter alia* on the experience of the Member States.

<sup>(1)</sup> OJ No C 166, 6. 7. 1985.

<sup>(2)</sup> OJ No C 277, 31. 10. 1989.

## COUNCIL CONCLUSIONS

of 26 May 1987

on protective legislation for women in the Member States of the European Community

(87/C 178/04)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

1. *notes with interest* the Commission communication on protective legislation for women in the Member States of the Community, which:

— falls within the framework of the action programmes on the promotion of equal opportunities for women, and

— aims at ensuring correct application of Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions<sup>(1)</sup>, and in particular Article 2 (3), Article 3 (2) (c) and Article 5 (2) (c) thereof;

2. *considers* that the examination or revision of protective legislation for women also falls within the context of employment policy and the improvement of working conditions;

3. *acknowledges* that protective legislation for women must be revised where it seems detrimental to the promotion of equal opportunities for women as regards job access or ineffective in terms of the protection policy itself;

4. *requests* the Member States and both sides of industry to review the protective legislation for women, particularly those provisions the Commission describes as unjustified, with the aim of promoting the desegregation and more adaptable patterns of work;

5. *takes note* of the interpretation given by the Commission and the Court of Justice whereby exceptions to the principle of equal treatment must be assessed very restrictively, and also takes note of the opinion that the application of that principle must take place in the context of the improvement of working conditions referred to in Article 117 of the Treaty;

6. *acknowledges* that the improvement of working conditions, protective equipment and workers' training as well as progress in scientific knowledge are factors to be taken into account in assessing the protective provisions concerning workers' health and safety;

7. *invites* the Commission to update in due course its communication in conjunction with the schedule for the Community medium-term programme on equal opportunities for women (1986 to 1990).

<sup>(1)</sup> OJ No L 39, 14. 2. 1976, p. 10.



## **V. Commission Communications**



## COM(2002) 748 final

### COMMUNICATION FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

#### Implementation of gender mainstreaming in the Structural Funds programming documents 2000-2006

##### 1. PURPOSE OF THE COMMUNICATION

This Communication provides an overview of the extent to which the gender mainstreaming dimension has been taken into account in the Structural Funds programming 2000-2006. It gives an inventory of progress and includes examples of good practice, and also identifies areas where progress is slow.

The Communication covers all four Funds<sup>1</sup> and the programmes of Objectives 1, 2 and 3. Information has been sourced mainly from the "Review of the proposed implementation of the ESF regulation across the EU", the study "Integration of equal opportunities in Objective 1 and Objective 2 Structural Fund programme documents", and other documents<sup>2</sup>.

Findings in these documents were confirmed at several conferences, seminars and workshops where Structural Funds practitioners and gender experts at different levels discussed their experience, ideas and strategies. The 3<sup>rd</sup> European Conference on gender mainstreaming in the Structural Funds in June 2002 in Santander/Spain<sup>3</sup>, national or regional events such as the "Gender Mainstreaming in UK & Ireland Structural Funds Conference" held in May 2002 in Wales, the Conference on Gender Equality, Employment and the Structural Funds in Greece end of February 2002, and a workshop with an external expert and Structural Funds desk officers in the Commission, show that despite the wide variety of themes, most of the key issues which emerged were the same.

The purpose of this document is to give an input to the Structural Funds' mid-term review when the allocation of the performance reserve is determined, along with any revisions concerning financial allocations, targets, priorities and measures.

##### 2. BACKGROUND

The Structural Funds are the main financial instruments to reduce disparities in development and to promote economic and social cohesion in the European Union. The total budget for the period 2000-2006 amounts to 195 billion Euro. 69.7 % of the total allocation goes to Objective 1, 11.5 % to Objective 2 and 12.3 % to Objective 3.

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<sup>1</sup> The European Social Fund (ESF); the European Regional Development Fund (ERDF); the European Agricultural Guidance and Guarantee Fund (EAGGF); the Financial Instrument of Fisheries Guidance (FIG)

<sup>2</sup> see: <http://europa.eu.int/comm/regional-policy/sources/docgener>

<sup>3</sup> Documents will be available on the website, see footnote 1.

The Structural Funds are an important catalyst for Community and national policies on gender equality. The General Regulation<sup>4</sup> (2000-2006) sets gender equality as a key objective and provides that the gender equality dimension must be incorporated into operations cofinanced by the Funds. The issue of gender equality is explicitly mentioned in 10 of the 56 articles. The Regulation reflects the obligations of the Amsterdam Treaty with which the dual approach of combining gender mainstreaming and specific actions was formally anchored at EU level. This dual approach is also reflected in the ESF Regulation<sup>5</sup>.

The ERDF<sup>6</sup> Regulation and the EAGGF<sup>7</sup> Regulation also contain references to gender equality. Gender equality is also an objective in each of the four Community Initiatives (2000-2006) EQUAL, INTERREG III, URBAN II and LEADER+.

The Structural Funds and especially the ESF, are the main financial tools that underpin the European Employment Strategy (EES). The EES has incorporated the gender dimension as a horizontal priority across all pillars, in addition to a specific pillar on equal opportunities which contains specific Employment Guidelines on gender issues.

The Structural Funds commitment to gender equality is not a new development. The Regulation for the period 1994-1999 had already taken equal opportunities for men and women in the labour market as a Community goal and a priority task for the ESF. In 1996, the Council of Ministers adopted a resolution on the mainstreaming of equal opportunities for women and men in the Structural Funds.<sup>8</sup>

However, until now, the Funds have mainly supported specific measures for women or pilot projects. These are important but cannot remedy structural inequalities. Moreover, gender equality has been regarded as a task mainly for the ESF although conclusions of the ESF final evaluations of the period 1994-1999<sup>9</sup> based on specific country results suggest that the measures, as well as jobs obtained after the measures, tended to reflect occupational segregation and gender stereotypes.

A turning point and a forerunner of measures to reduce vertical and horizontal segregation was the initiative NOW ("New Opportunities for Women") within the Community Initiative EMPLOYMENT. The successes in women's entrepreneurship and activities to reduce labour market segregation serve as an important basis for current Fund operations.

Building on this, the gender equality dimension has been incorporated into the methodological working papers for the preparation of the programming period 2000-2006, covering programming, ex-ante evaluation, monitoring and evaluation.<sup>10</sup> The Commission has

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<sup>4</sup> Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds

<sup>5</sup> Regulation (EC) No 1784/1999 of the European Parliament and of the Council of 12 July 1999 on the European Social Fund, Art. 2 (1 e) and (2 c)

<sup>6</sup> Regulation (EC) No 1783/1999 of the European Parliament and of the Council of 12 July 1999 on the European Regional Development Fund, Art. 2 (2 f)

<sup>7</sup> Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations, Art. 2

<sup>8</sup> Council Resolution of 2 December 1996 on mainstreaming equal opportunities for men and women into the European Structural Funds (96/C 385/01)

<sup>9</sup> "Conclusions of the ESF final evaluations", European Commission, October 2001

<sup>10</sup> Working Paper 2 "The Ex-Ante Evaluation of the Structural Funds interventions", Annex IV, European Commission; Working Paper 3 "Indicators for Monitoring and Evaluation: An indicative methodology", Annex 2, Sheet I, European Commission

also drawn up a technical paper which sets out guidance on practical arrangements for implementing gender mainstreaming in the operations cofinanced by the Structural Funds and presented a definition of gender mainstreaming in the Structural Funds :<sup>11</sup>

«Gender mainstreaming» involves ensuring that all general measures and operations openly and actively take into account – during planning, implementation, monitoring and evaluation – their effects on the respective situations of women and men. It also involves the complementary design, implementation, monitoring and evaluation of specific measures and operations to promote equality and to assist women to participate and benefit equally.

Overall, plans and programmes should contribute to improved equality between men and women, and should be able to demonstrate this impact, prior to, during and after implementation.

### **3. GENDER MAINSTREAMING IN THE PROGRAMMING DOCUMENTS FOR OBJECTIVES 1, 2 AND 3**

#### **3.1. Thematic priorities of gender equality measures**

Gender equality is more effectively dealt with in the current programmes of the Structural Funds than in the previous programming period. However, like in the previous period, gender equality is concentrated in the field of employment and human resources development and to a large extent funded by the ESF, but neglected in other areas, such as environment, transport, rural development, research and development, etc. Connections between gender equality and other horizontal themes such as sustainable development or supporting the knowledge society are missing in the majority of programmes.

##### *3.1.1. Focus on ESF funded measures - human resources development*

The ESF plays an important role in reducing gender gaps in employment and in achieving the objectives of the EES by 2010. It has a particular role in relation to the target set at the Lisbon European Council to increase the female participation rate to 60 %, and the targets agreed upon in Barcelona to provide childcare to at least 90 % of children between three years and school age, and at least 33 % of children younger than three years.

In 2001, employment rates for women have increased in nearly all Member States. However, the employment rate for women in the EU (54.9 %) is still 18 percentage points below the male rate (73 %) and 5.1 points below the target set at the Lisbon European Council. Moreover, women continue to be over-represented in part-time work. The unemployment rate for women on EU average is currently 2.4 percentage points above men. The presence of children has a larger impact on women than on men's employment status. The employment rate of women aged 20-50 without children (68 %) is 12 points higher than that of women with children under 6 years old (56 %).

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<sup>11</sup> Technical Paper 3 "Mainstreaming Equal Opportunities For Women And Men In Structural Fund Programmes And Projects", European Commission, March 2000

*Gender gaps in employment*<sup>12</sup>

	<i>EMPLOYMENT GENDER GAP</i>	<i>UNEMPLOYMENT GENDER GAP</i>	<i>GENDER PAY GAP</i>
<b>EU-15</b>	<b>18.0</b>	<b>2.3</b>	<b>16.2</b>
Greece	29.8	8.6	13.2
Spain	28.9	8.0	14.3
Italy	27.5	5.6	8.6
Luxembourg	23.9	0.7	N.A.
Ireland	21.4	-0.2	19.8
Belgium	18.7	1.4	7.3
Netherlands	17.5	1.1	21.1
Austria	16.5	1.3	21.1
Portugal	15.8	1.9	5.9
France	14.1	3.4	10.8
Germany	13.7	0.4	19.4
United Kingdom	13.3	-1.1	24.3
Denmark	8.3	1.1	10.4
Finland	5.5	1.1	N.A.
Sweden	2.9	-0.3	N.A.

In most of the ESF programmes, priorities concerning gender equality are focussed on two main objectives: improving women's access to and participation in employment, education and training; and improving the reconciliation of work and family life.

The majority of measures related to the participation of women in employment, education and training aim at promoting the employability of unemployed women and those having an unemployment risk and at overcoming skill barriers for women entering or returning to the labour market. They include training and counselling for women and awareness-raising and information activities.

<sup>12</sup> Commission staff working paper: Assessment of the implementation of the 2001 Employment Guidelines - Supporting Document to the Joint Employment Report 2002

Limited efforts are made to improve job quality, empowerment and career development of women. Only a few measures aim at reducing the gender pay gap or promoting women's access to management positions or to traditionally male dominated highly qualified jobs in the information and technology sector. Promoting and supporting women's entrepreneurship and business start-ups is also a priority mentioned only in a few programmes.

Measures aiming at a better reconciliation of work and family life mainly include support for care facilities for children. Very little attention is paid to the care of elderly and other dependants. Some activities intend to promote a more flexible working time but there is often a lack of accompanying policies.

The main concern from the previous programming period - that many measures reinforce existing gender patterns and segregation - is reflected in the current period. Measures to promote women in the traditional service sector, counselling, qualification and training or investments in childcare are more often found than activities to reduce gender segregation in the labour market or the gender pay gap, or to promote women in decision-making positions.

The risk of reinforcing gender segregation appears to be particularly high in growth sectors such as information technology sector. Most measures in these areas take no account of gender inequalities and do not include any actions to promote equal participation of women and men.

*Spanish programmes are good examples of a wide range of actions to improve women's participation in the labour market. Out of 12 interventions in Objective 1 regions, 8 regions include the three measures: to improve women's employability; to promote women's business activity (i.e. women as entrepreneurs); to fight vertical and horizontal segregation, as well as salary discrimination; and to promote reconciliation of family and work. Each region foresees a wide range of actions, i.e.: training (mainly in sectors where women are under-represented); financial aids to enterprises hiring unemployed women; creation and consolidation of women enterprises (enterprises founded by women/run by women/led by women); information and dissemination campaigns; research; promoting women in decision-making positions, etc.*

*In the Objective 1 Programme "Employment, training and social development" in Portugal, the Measure "Promotion of equal opportunities between women and men" covers potential actors and actions in a wide sense. It is structured in three groups of projects:*

*1) Structural measures, including studies and statistics, awareness raising and training, prestige awards for companies and public services, creation of an Observatory for gender mainstreaming*

*2) Support for interventions in favour of gender equality, for instance for employers creating new working models, promotion of women's access to Information Communication Technology (ICT) training and to male dominated professions*

*3) Support to NGOs in charge of gender equality (capacity building)*

### 3.1.2. Gender Equality measures funded by the ERDF

Few programmes funded by the ERDF contain specific actions to promote gender equality. They belong mainly to Objective 1 regions, for instance in Italy, the UK and Finland, and concern local and urban development, as well as innovation and R&D.

One group of the projects that receive funds in these programmes is aimed at supporting services, for instance, developing new service structures, or testing welfare services that improve participation in the labour market.

Some actions are directly related to the health sector, such as health awareness measures including campaigns to tackle teenage pregnancy and drug and alcohol abuse.

A number of projects aim at improving living and environmental conditions in local and urban areas. These include projects that develop new ways of participation, or activate/encourage inhabitants to improve their environment or promote children's and young people's well-being. Others include community managed building design and estate management strategies, particularly those that focus on tackling gender, disability and age-related issues of mobility, access to services and security.

Another group of actions concerns the area of innovation and information society. These actions include initiatives to promote involvement in innovation and R&D by women, or incorporate a gender perspective into the support for development and management of science parks, innovation centres, technology and new media centres.

A number of actions support childcare projects and facilities and provide opportunities to reconcile family and work. Especially in the area of childcare, there is a greater intervention and co-operation between the Funds in comparison with the last programming period, for instance in Ireland, Greece and Italy, where childcare services are supported by both the ESF and the ERDF.

*A good example is the Objective 1 Programme for East Finland. The Measure "Developing the structures of everyday life" in the Programme Complement aims to develop new kinds of participation and innovative service structures and activities. Its objective is to benefit from civil society, and to develop new interaction between different groups of people and between working life and leisure time. With regard to the impact on gender equality, the activities are supposed especially to create new jobs for women. Integrating IT into everyday life will enhance women's interest in technology and improve market demand for women's skills in the IT-sector.*

*The Programme Complement to the Italian Objective 1 Programme for Mezzogiorno is intended, within the promotion of centres of competence, to encourage especially initiatives of women entrepreneurs in the field of environmental protection.*

### 3.1.3. Gender Equality measures funded by the EAGGF and the FIFG

The gender dimension is less visible in the majority of EAGGF and FIFG measures than within ESF programmes.

In the implementation of the EAGGF Regulation<sup>13</sup>, certain obstacles have emerged which make it difficult to integrate the principle of gender equality. The majority of funding concerns the agricultural sector where women are underrepresented. Actions are primarily focused on farms and their beneficiaries are the farm owners. The fact that only one out of five farm owners is a woman reduces the possibility for women to benefit directly from these projects. Farmers' wives and female employees are ignored by this kind of funding.

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<sup>13</sup> see footnote 7



In most of the programmes, there is a lack of sex-disaggregated statistics, analysis of gender inequalities in rural areas and in the agriculture and fisheries sector, and of gender impact assessment. A few programmes clearly identify disadvantages of women but do not address them in measures to ensure that women will participate and benefit equally from actions. Gender imbalances might even increase when, for instance, as indicated in a measure to encourage young farmers to take over or improve farms, it is explicitly foreseen that less than 6 % of the beneficiaries will be women. Only in exceptional cases, are amounts allocated for the promotion of women through quota. Certain regions (for instance the Provence Alpes Côte d'Azur, France) took the initiative to include gender equality as a criteria in project selection.

Actions linked to areas where the representation of women is higher concern a rather low percentage of the programmes. Measures which might have a positive impact on gender equality mainly cover areas such as diversification, training, new employment opportunities and setting up small enterprises in rural tourism, producing and selling regional products, childcare.

A number of Rural Development Plans (RDP) state the principle of gender equality but refer to other funds, especially to the ESF, which intervenes in rural areas in terms of vocational training and employment aspects, and the ERDF for equipment aspects, services, small and medium-sized enterprises. Whilst all regions could benefit from ESF financing, only regions classified as Objective 1 or 2 can benefit from ERDF.

In the EAGGF funded Community Initiative LEADER+, certain Member States foresee a quota of women for the partnerships in the groups of local action (GAL): 40 % in Sweden, with the aim to reach 50 %; 20 % in the Netherlands. In LEADER + , the programmes presented take the needs of women in rural areas into account. However, as the programmes have just started, it is too early to judge to what extent rural women will benefit from the introduction of this priority.

The insufficient incorporation of the gender perspective was addressed by the Agriculture Council in May 2002. In the conclusions, the Council called for equal opportunities between women and men to be promoted at European level and incorporated into all programmes receiving support from the Structural Funds. These undertakings should now be translated into objectives, activities and specific measures.<sup>14</sup>

The Common Fisheries Policies programming for 2000-2006, takes gender mainstreaming and the conditions of women in the fisheries sector and their needs, into account on the basis of the recommendations in the study "The role of women in the fisheries sector in the 15 Member States" and national/regional initiatives. Regulation No 2792/1999<sup>15</sup> has taken gender mainstreaming into account:

- In Article 11, activities of the family of fishermen, professional requalification, training, improvement of sanitary and working conditions in small scale coastal fishing is incorporated into FIFG activities, on the basis of experience in the previous programme.

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<sup>14</sup> 2428th Council meeting - AGRICULTURE - Brussels, 27 May 2002, 8959/02 (Presse 148)

<sup>15</sup> Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector, see footnote 2

- In Article 15, the regulation takes into account operations of collective interest with a broader scope, where women are very supportive. It foresees, among others, the financing of training activities on land, creation of business incubators (women could be active in other commercial activities on land).

However, positive examples of the actual implementation of the gender perspective are rarely visible. In order to improve the gender perspective, a conference on the role of women in the fisheries sector will be organised by the Commission in Brussels in January 2003 in order to exchange experiences, good practices, and identify benchmark initiatives to be promoted.

### **3.2. The strategy to reach gender equality**

The legislative framework for 2000-2006 has helped raise the profile of gender equality in the programming documents. Member States have accepted the commitment to gender equality, though many programmes lack specification. In most of the programmes, there is a significant gap between analysis and programming strategy. An analysis of differences in the socio-economic circumstances of women and men in order to define the obstacles to be overcome is evident in only a few plans and programmes. However, even where the analysis clearly points to certain gender gaps, the strategy for reducing these gaps and achieving gender equality does not always match the analysis. For instance, serious weaknesses or inequalities concerning women's situation in the labour market and in economic life, which are identified in the data, are often not addressed in the strategy and its priorities and measures. The analysis in the programmes does not always lead to the definition of strategic gender equality objectives or concrete measures in the Programme Complements.

#### *3.2.1. Visibility of the dual strategy: gender mainstreaming and specific action*

Community Support Frameworks (CSFs) and Single Programming Documents (SPDs) often aim at a horizontal integration of gender equality into all actions and programme priorities together with specific measures to reduce gender gaps. As in the previous programming periods, the ESF is the Fund where this dual approach is the most visible.

Many of Objective 1 and 2 interventions include some specific gender equality actions. However, although specific actions have been promoted in the framework of Structural Funds programmes and initiatives for more than 10 years - and are clearly identified as part of the gender mainstreaming strategy - about a third of the programmes make no mention of specific actions at all.

Instruments or procedures to ensure gender equality in mainstream measures or priorities exist to a certain extent in 70 % of Objective 2 interventions, but only in a minority of Objective 1 interventions.<sup>16</sup>

While there is often the intention to treat gender as a cross-cutting theme, the gender dimension is lacking in the description of priorities and measures, for instance in the Programme Complements. In only a few programmes is a real cross-cutting approach visible. Such programmes contain a systematic gender impact assessment as well as tools and instruments to ensure that gender equality is one of the criteria for project selection, monitoring and evaluation. Good examples are found in Germany, the Objective 2

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<sup>16</sup> The figures concerning Objective 1 and 2 programmes in Chapter III have been taken from the study "Integration of equal opportunities in Objective 1 and Objective 2 Structural Fund programme documents"

Programmes of Bavaria, North Rhine-Westphalia and Lower Saxony, and the Objective 1 Programmes of Berlin, Brandenburg and Saxony-Anhalt; in the United Kingdom, the Objective 2 Programmes of North West England and Yorkshire & Humber, and the Objective 1 Programmes of South Yorkshire and West Wales & Valleys; and the East Finland Objective 1 Programme.

*The North West England Objective 2 Programme presents a detailed and comprehensive strategy for gender mainstreaming as a cross-cutting theme. Specific equal opportunity targets have been developed for the three vertical priorities, focusing in particular on numbers of jobs created and safeguarded, new companies and SMEs assisted, and the securing of positive outcomes in terms of learning, employment, self-employment and micro-business creation. The Equal Opportunity Strategy involves three mechanisms: scoring and appraisal criteria for projects, an Equal Opportunities Advisory Group, support and guidance for project sponsors.*

– Recommendation / Action needed:

Programme leaders at all levels need to show their commitment to gender mainstreaming as a transversal priority across all Funds and Objectives.

### 3.2.2. *Targets, data and indicators*

Specific objectives and targets to reduce gender inequalities (for instance reduced vertical or horizontal labour market segregation, reduced gender pay gap) and to promote gender equality (for instance increased female activity rates, increased number of women setting-up businesses) are rare. Clearly quantified objectives are proposed in a minority of interventions across all Objectives, such as in the Objective 1 Programmes of Burgenland (Austria), Thuringia (Germany), North Finland, the Vocational Training and Social Integration Programme of Portugal, and South Yorkshire (UK).

*The Guadeloupe (France) Programme contains a number of quantified targets: 25 % reduction of female unemployment by 2006; training of 60500 women (= 55 %); training of 125 female entrepreneurs (= 50 %); training of 1947 illiterate women (= 59 %).*

In line with the requirement in Article 36 (2) of the General Regulation, the great majority of interventions in all three Objectives include at least some baseline data broken down by sex in their diagnosis of the situation. A number of programmes even present systematic, comprehensive statistics disaggregated by sex.

A set of data broken down by sex serves as the necessary input for developing indicators related to gender issues, that is to say, to monitor gender gaps and to measure progress in gender equality.

In fact, nearly 50 % of Objective 1 and about 30 % of Objective 2 interventions do not foresee any gender-sensitive or gender equality indicators. In only a small minority of interventions, are they presented systematically, for instance in Germany, Spain, Finland, Portugal and the United Kingdom.

*In Ireland, the RTDI<sup>17</sup> - Forestry Research Sub-Measure (Objective 1 Programme Complement) contains the following indicators to measure gender equality:*  
- Gender composition of those undertaking short-term research missions (target 2006 45 %)  
- Gender balance of COFORD<sup>18</sup> staff (target 2006 40-50 %)

– Recommendation / Action needed:

The provision and systematic use of data broken down by sex and quantified indicators and targets is required to measure the effectiveness of Structural Funds operations concerning gender equality, in particular with regard to the mid-term review. For the mid-term evaluation - which is a key element for the mid-term review - appropriate equality indicators are needed which, instead of numerical counting, measure reduced disparities or improved equality between women and men at results and impact levels.

### **3.3. Gender mainstreaming instruments in programming and implementation**

Gender mainstreaming is a relatively new area of expertise and is not easy to implement in national policies and programmes. It is therefore essential to bring on board all available resources and expertise. As far as the Structural Funds are concerned, this can be done in a number of places, such as ex-ante evaluation, partnership, Monitoring Committees, training, allocation of resources, project selection criteria, information and publicity.

#### **Ex-ante evaluation concerning the gender dimension**

In spite of the clear requirement in Article 41 (2) (c) of the General Regulation, a substantial proportion of programmes do not include an ex-ante evaluation of the situation in terms of gender equality.

*A good example is the ex-ante evaluation of the Spanish Objective 1 Programme for Andalusia. The evaluation is preceded by a comprehensive analysis/diagnosis of the situation of women in the labour market, by sectors, by ages, salaries, in education and vocational training, in the enterprises, in rural areas, conciliation with family life, etc., based on updated data broken down by sex. Such analysis points to factors behind the gender imbalances that need to be addressed. The ex-ante evaluation sums up the conclusions in a matrix establishing the degree of coherence of each priority and measure of the Programme with the EU priorities in the field of equal opportunities. It scores their impact with the terms: "high impact; medium impact; low impact, or not possible to evaluate." Furthermore, it quantifies the expected results in terms of number of women beneficiaries of the measures. To ensure the achievements of the quantified results, it proposes some measures and indicators to be included in the Programme Complement as well as the creation of an Observatory. Unfortunately, the diagnosis, evaluation and recommendations have not been fully translated in the Programme Complement.*

#### **Equality Partnerships**

Article 8 (1) of the General Regulation explicitly states that the need to promote gender equality shall be taken into account in designating partnership. Appropriate knowledge and skills in gender issues, at the right phases and right levels, is critical to the success of plans and programmes.

<sup>17</sup> Research, Technological Development and Innovation

<sup>18</sup> Irish National Council for Forest Research and Development

In fact, the majority of programming documents of Objective 2 and 3 mention some consultation with bodies concerned with equality issues during the preparation of the programmes. But in most cases, this was limited to formal, "arms-length" consultation with national or regional gender equality bodies or departments. Gender equality organisations, including NGOs, were involved systematically only in a minority of cases, for instance in Objective 2 programmes in Austria, Germany, and Spain, whereas nearly four in five Objective 1 programmes make no mention of any consultation with gender equality bodies.

*In those regions where partnerships with gender equality organisations already existed in the previous programming period, these structures play an important role and are also involved in all stages in the current period, e.g. the regional offices "Women and Employment" in North Rhine-Westphalia (Germany) and the working group "Women and Economy" in Berlin. In Berlin, since the end of 2000 a "gender-committee" under the responsibility of the ministry in charge has been established for monitoring and counselling in relation to concerning the further implementation of the gender mainstreaming approach in all Structural Funds interventions.*

– Recommendation / Action needed:

Managing authorities, Monitoring Committees, local programme managers and project promoters are requested to elaborate and maintain partnership with gender equality experts at all levels and stages during the implementation process, e.g. by regular meetings or consultations, ad-hoc meetings on specific issues, working groups etc.

**Monitoring Committees**

*Gender balance*

A number of Member States have declared an intention to promote a balanced participation of men and women in Monitoring Committees, in line with Article 35 (1) of the General Regulation. However, this statement often seems to be more of a recommendation than a commitment. Only 16 % of the programmes under Objective 2, and 14 % of those under Objective 1 give clear statements of an intention to promote or ensure gender-balanced Monitoring Committees. The worst performers, with hardly any reference in their Objective 1 or 2 programmes, are Belgium, Spain, France, Italy, Portugal and the Netherlands.

***Gender balance in Monitoring Committees according to most of Objective 1 and 2 programming documents***

<b><i>Gender balance in</i></b>	<b><i>substantial</i></b>	<b><i>partly</i></b>	<b><i>not at all</i></b>
<b><i>Monitoring Committees</i></b>			
<b>Austria</b>		X	
<b>Belgium</b>			X
<b>Denmark</b>	X		
<b>Finland</b>		X	

<b>France</b>			<b>X</b>
<b>Germany</b>		<b>X</b>	
<b>Greece</b>		<b>X</b>	
<b>Ireland</b>		<b>X</b>	
<b>Italy</b>			<b>X</b>
<b>Netherlands</b>			<b>X</b>
<b>Portugal</b>			<b>X</b>
<b>Spain</b>			<b>X</b>
<b>Sweden</b>	<b>X</b>		
<b>United Kingdom</b>		<b>X</b>	

*Participation of gender experts*

In the majority of Objective 1 and 3 interventions, national or regional organisations or bodies in charge of gender equality are formally represented in Monitoring Committees. In contrast to that, nearly 60 % of Objective 2 interventions do not mention at all a participation of such organisations. A few notable exceptions are some regional Objective 1 and 2 Programmes in Germany and the United Kingdom where they are referred to in a very precise manner.

*The Objective 2 Programme for Bavaria (Germany) clearly lists the gender equality representatives to participate in the Monitoring Committee: responsible public authorities, women's NGOs, authority for family affairs and, a number of local representatives.*

*The Objective 2 Programme for Yorkshire & Humber (UK) explicitly mentions the involvement of the Equal Opportunities Council and the Women's Training Network.*

*Gender equality working groups*

In the vast majority - nearly three-quarters - of Objective 1 and 2 interventions, there is no reference to the creation of working groups on gender equality issues. Only a small minority of interventions explicitly mention the setting-up of such groups.

*The working group for Gender Equality Issues in the Monitoring Committee of the Objective 3 Programme in Sweden observes gender equality aspects in the entire programme and can change when necessary, makes proposals for the use of special funds for gender equality. The group has organised a national conference on gender equality for all those working with the Objective 3 Programme (unless the Objective 3 programme is on gender equality aspects) and is providing instructional material how to deal with gender equality issues - together with the National Equality Ombudsman Office - targeted especially at small work places with less than 10 employees.*

– Recommendation / Action needed:

Monitoring Committees are the key actors to oversee the implementation of the programmes and reaching targets. Knowledge of gender equality objectives and gender mainstreaming tools is therefore essential and needs to be ensured through the setting up of special working groups and the participation of gender experts and gender balance in the Committees.

**Gender mainstreaming training**

Implementing gender mainstreaming systematically is not an easy task and requires training on how to use the various tools. However, around 85 % of interventions do not present any gender awareness-raising or training measures for staff in Structural Funds managing authorities or members of Monitoring Committees. Good examples exist only in some programmes, for instance in Germany, the United Kingdom and Ireland.

*In Ireland, gender mainstreaming training is offered to Monitoring Committee members and all those responsible for implementing ESF on a daily basis. The "NDP Gender Equality Unit" within the Department of Justice, Equality and Law Reform runs training sessions for policy-makers and implementing agencies, for instance on gender mainstreaming in relation to urban development.*

– Recommendation / Action needed:

Apart from gender experts involved in programming and implementation, those who have an influence on implementing the programmes have to get training - on the benefits gender mainstreaming brings, as well as on the key tools for effective gender mainstreaming. Training needs to be provided for members of Monitoring Committees, managing and paying authorities, project appraisers, programme secretariats, project applicants and sponsors.

**Allocation of resources for specific actions to promote gender equality**

The financial allocation planned for specific actions in favour of gender equality varies between the Member States and between programmes.

Within the ESF, policy field E (Women's access to and participation in the labour market) receives only 6 % of the total support which is the smallest part of assistance compared to the other fields: Field A (Active labour market policies) receives 24 % which is the greatest funding, followed by D (Adaptable workforce): 24 %, C (Lifelong learning): 21 %, and B (Social inclusion): 15 %. The table below shows the ESF funding across the Member States for policy field E in Euro and the percentage of total spending<sup>19</sup>:

	<i>Total spending in Euro</i>	<i>%</i>
Austria	76,782,000	10.5 %
Italy	837,469,241	10.0 %
Germany	1,099,335,311	9.5 %

	<i>Total spending in Euro</i>	<i>%</i>
France	257,352,700	3.8 %
Belgium	38,252,364	3.5 %
Denmark	10,498,333	2.3 %

<sup>19</sup> The figures have been taken from the study "Review of the proposed implementation of the ESF regulation across the EU"

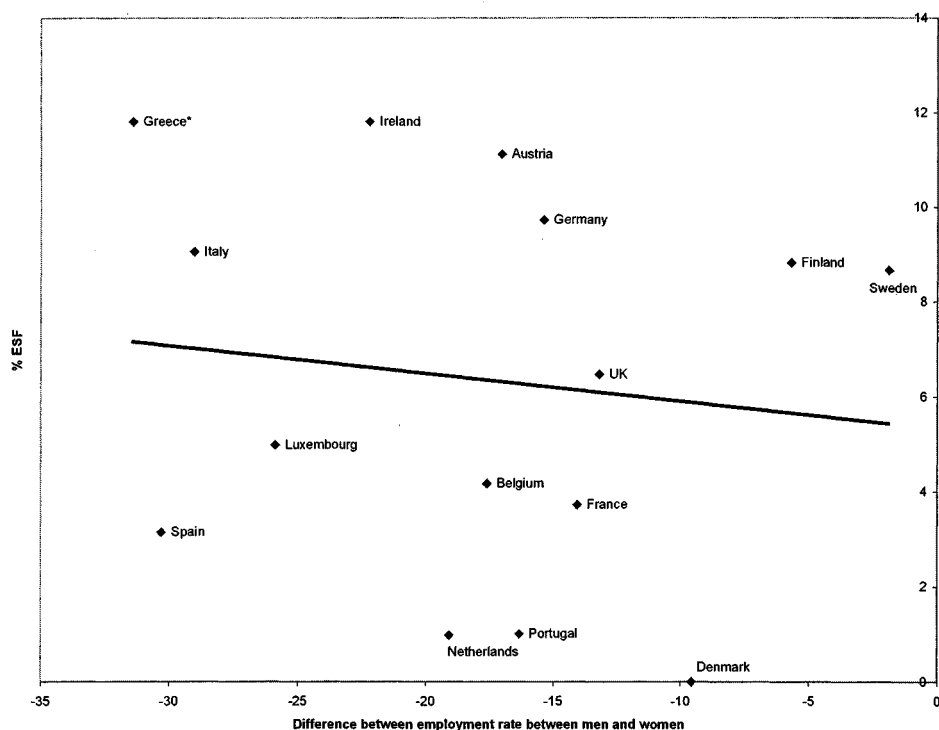
Luxembourg	3,380,600	4.6 %
UK	355,121,072	4.6 %
Greece	193,761,925	4.5 %
Spain	521,899,539	4.4 %
Ireland	46,631,000	4.3 %

Netherlands	43,139,000	2.2 %
Sweden	8,102,800	0.8 %
Finland	6,723,000	0.8 %
Portugal	17,240,700	0.4 %
<b>EU</b>	<b>3,515,689,585</b>	<b>6.0 %</b>

Only three Member States, Austria, Italy and Germany, devote more than the EU average to policy field E. However, it is difficult to compare the level of funding for this policy field. A Member States's relatively low level of funding in this area may not necessary reflect a low concern for gender issues but might indicate that activities to promote gender equality are funded under the other policy fields.

A comparison between the gender employment gap and planned ESF expenditure on specific action for women might suggest that some Member States with a large gender gap spend significantly less than other Member States where the gender employment gap is much smaller.<sup>20</sup>

**Comparison of the employment gap between men and women and planned ESF expenditure on specific actions for women**



<sup>20</sup> Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee on European Social Fund Support for the European Employment Strategy, 23.01.2001, COM (2001) 16 final/2, Annex 5



According to the "Commission Staff Working Paper on the Results of the Programming of the Structural Funds for 2000-2006 (Objective 1) - Technical Annexes",<sup>21</sup> 29.63 % of the budget goes to assistance for human resources. Within this type of assistance, 4.6 % goes to specific action to favour women in the labour market.

– Recommendation / Action needed:

As part of the mid-term review, an assessment should be made as to the adequacy of resources for activities to promote gender equality. Sufficient resources are essential to allow the dual approach - gender mainstreaming and specific action.

### **Project selection criteria concerning gender equality**

In less than 25 % of programmes is a systematic approach taken to include gender equality as one of the selection criteria for projects across the programme or in most priorities and measures. A number of programmes present scoring methods for project selection. Good examples can be found in several programmes, for instance in Germany, Spain, Greece, Finland, Portugal and the United Kingdom.

*In the Objective 1 Campania Programme (Italy) the impact on gender equality is a priority selection criteria in a number of measures. Examples:*

- Support for the development of micro-enterprises in national and regional parks;*
- Support for installations to produce renewable energies and to improve the distribution of electricity in industrial areas;*
- Support for the development of human competence and entrepreneurship in the cultural and leisure sector.*

– Recommendation / Action needed:

Clear project selection criteria concerning gender equality should be defined by managing authorities. Project appraisers should reject proposals in case of inadequate attention of these criteria. But apart from developing criteria for selecting projects, it is also important to look at the projects finally selected. Implementation reports should include information such as the number of projects aiming at gender equality, the amount of money spent on them, the specific areas they cover etc.

### **Information and publicity concerning gender equality**

In spite of the clear reference in Article 46 (2)(a) of the General Regulation, the majority of programmes do not mention measures of information and publicity targeting women or women's organisations. Only a small percentage - regional programmes in Austria, Spain, Germany, United Kingdom - provide a description of the action to be taken to inform organisations and bodies involved in women's and equality issues.

The figures are even worse for measures of technical assistance which shall include, according to Article 23 of the General Regulation, inter alia the exchange of experience and information aimed at the partners, the final beneficiaries, and the general public. Less than 8

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<sup>21</sup> SEC(2001) 1140/2, 18 July 2001

% of Objective 1 and 2 programmes, namely in Austria, Germany and the United Kingdom, provide technical assistance targeted at women's or equality organisations. While not required explicitly by the Regulation, the provision of technical support to equality organisations can be considered as an indicator of the extent to which programmes make an effort to involve women and to make use of the expertise and experience of such organisations.

*In Austria, a "Co-ordinating Unit for Gender Mainstreaming within the ESF" has been set up to inform and support all ESF actors in implementing gender mainstreaming, by networking (round tables across all Länder, international contacts), offering counselling, and providing and distributing information also to a wider public (website, database etc).<sup>22</sup>*

– Recommendation / Action needed:

Distributing and sharing information and in particular best practices, including those from previous programming periods, is vital for effective gender mainstreaming. The Commission and national authorities should co-operate to develop mechanisms for systematic collection and dissemination of information and best practices, for instance through good practice guides or manuals. Moreover, implementing gender mainstreaming in Structural Funds programming requires incorporating the gender perspective in technical assistance and in general information measures, as well as funding specific information activities targeted at women.

#### 4. FINDINGS / RECOMMENDATIONS

Gender equality is an essential element of economic and social cohesion. Since the Fourth World Conference on Women held in Beijing in 1995, the EU has adopted a dual approach for the effective promotion of gender equality : a balanced combination of specific measures for the under-represented sex and "gender mainstreaming" measures, i.e. the incorporation of the gender dimension in all Community policies. This approach applies also to gender equality activities within the Structural Funds.

Gender mainstreaming in the Structural Funds involves ensuring that all general measures and interventions openly and actively take into account – during planning, implementation, monitoring and evaluation – their effects on the respective situations of women and men. It also involves the complementary design, implementation, monitoring and evaluation of specific measures and operations, to promote equality and to assist women to participate and benefit equally from the Structural Funds and, more generally, from economic and social cohesion.

Experience shows that gender equality is a complex policy area, and that there are a number of obstacles to the successful implementation of a dual approach involving both specific measures and mainstreaming.

The following recommendations are designed to address the above obstacles immediately :

##### Immediate actions

1. Specific measures aimed at the under-represented sex are essential as a first step – for which dedicated funding needs to be visible. Member States and their Managing Authorities are invited to introduce incentives aimed at raising the awareness and

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<sup>22</sup> [www.gem.or.at](http://www.gem.or.at)

importance of gender in all Structural Funds programmes. This could be done in particular by assigning, from the outset, additional points in the selection criteria to those projects which contribute to gender equality, e.g. with gender balanced participation.

2. Some Member States have placed the majority of their emphasis on gender mainstreaming – which risks making their actual funding allocation difficult to identify and monitor. Member States are therefore invited to clearly identify, on the one hand, the funding allocated to specific gender equality actions and on the other hand, those programmes and projects which contribute to gender equality (gender mainstreaming). Member States should report on these figures with clear indicators as part of the mid-term review of the Structural Funds as of 2003.
3. Effective gender mainstreaming is difficult and requires specific expertise. As this is a relatively new area, especially in the Structural Funds :
  - a) Member States are requested to encourage, through Managing Authorities, Monitoring Committees, local programme and project managers, especially in the short term, the use of **gender equality expertise**, and to ensure the presence of representatives of equality bodies and research institutions in Structural Funds Monitoring Committees ;
  - b) Member States are requested to establish **awareness-raising measures and training** in gender mainstreaming for Managing Authorities, members of Monitoring Committees, programme and project managers and partners.
4. All policies are improved with ex-ante evaluation and impact assessment. In the context of gender mainstreaming, ex-ante evaluation relies on the availability of analysis using sex-disaggregated statistics. Gender impact assessment needs clear qualitative and quantitative gender equality indicators for monitoring and evaluating output and results. Member States are urged to ensure, notably through their Managing Authorities, that sex-disaggregated statistics and gender impact assessment become an inherent component of Structural Funds interventions, including in "non-traditional" gender equality domains such as infrastructure, transport or environment.
5. Each Member State is invited to appoint a high-level representative to coordinate the national strategy for gender equality, to contribute to the co-ordination of the EU strategy, and to participate in a high level group to support the implementation of gender mainstreaming in Structural Funds interventions.

#### Mid-term review

The mid-term review will provide an opportunity to identify reorientations to the programming which may be needed to ensure the achievement of the original objectives of supporting gender equality. The mid-term evaluation which will be available from mid-2003 will serve as an important basis for the mid-term review, and as a useful tool to show

achievements and obstacles in incorporating gender equality in the implementation of the programmes, and to identify good practices.<sup>23</sup>

The mid-term review of the Structural Funds will build on the findings and recommendations presented in this Communication in order to enhance the gender equality perspective in the implementation of programmes in the current programming period, as well as being a foundation for future action.

During the first semester of 2003, the Commission will elaborate guidelines for the implementation of the mid-term review, which will take into account the recommendations of this Communication.

#### Future considerations

The findings and recommendations stemming from the current programming period of the Structural Funds address deep-rooted issues that can only be dealt with over the longer term; therefore, they will, in substance, also remain valid for future Structural Funds interventions. In particular the allocation of funding for gender equality activities must be retained and even increased in most programmes.

A number of issues arise for further examination when looking at the future promotion of gender equality in the Union. The Commission considers the following as the most important ones:

- Equal opportunities between women and men must remain a priority with the dual approach – gender mainstreaming and specific actions – which has proved its effectiveness, being continued.
- Investment in human and social capital in the knowledge society will form the basis of long-term growth of Europe. Consequently, future interventions should focus on preventing the exclusion of women from these areas by giving particular attention to encouraging high quality training and employment in the ICT and R&D sector, in tandem with a wider commitment to promoting female entrepreneurship, life-long learning, training, skills and qualifications for women in non-traditional areas.
- The Structural Funds should play an important role in the specific context of the forthcoming enlargement of the Union, especially in combating the potential risks faced by women in new Member States, particularly those who are exposed to the adverse effects of economic and social restructuring, such as the increase of unemployment and the decrease of childcare provision.

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<sup>23</sup> The Commission's guidelines for evaluation of STRUCTURAL FUNDS operations "Working Paper 8: The Mid-Term Evaluation of the Structural Funds Interventions" (December 2000) emphasise the need to assess the extent to which the gender dimension has been integrated into the forms of assistance.

## COM(2001) 295 final

### COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

#### Programme of Action for the mainstreaming of gender equality in Community Development Co-operation

#### EXECUTIVE SUMMARY

Gender equality is crucial for development in general and the link between gender and poverty has made the relevance of gender mainstreaming in development co-operation more critical than ever before. Gender mainstreaming is a long-term incremental approach of integration of gender issues in policy and planning. There are three main reasons for mainstreaming gender issues in Community development co-operation:

- A disproportionate majority of the world's poor are women who, in some instances, lack not only access to important economic and social resources, but also have their human rights as individuals denied to them;
- Investments in improving the situation of women (providing education, improving health and securing their land and labour rights) translate into higher levels of productivity, and lower levels of infant and female mortality, food insecurity and poverty;
- The European Union has a long-standing engagement to promoting gender equality and has played an active role in international conferences advocating women's rights, notably at the Fourth World Conference on Women in Beijing, 1995. It is now time to prioritise positive actions and mainstream gender concerns into every level of development co-operation.

The European Community has a number of policies, guidelines and declarations that explicitly call for the mainstreaming of gender in development co-operation. These are further reinforced in the framework of the Community's recent Development Policy (April 26 2000 COM (2000) 212 final), as well as in EU partnership agreements with developing countries.

This Programme of Action capitalises on these achievements and proposes concrete actions for the future. It proposes to mainstream gender around three major axes:

I. The analysis and integration of gender within the priority areas identified by the Community Development Policy:

1. support for macro-economic policies and poverty reduction strategies and social development programmes in health and education;
2. food security and sustainable rural development;
3. transport;
4. institutional capacity building, good governance and the rule of law;
5. trade and development and

6. regional integration and co-operation.

Gender is a crosscutting theme in all these six areas.

Methods proposed to mainstream gender within these areas include: reviewing the Commission's existing policies and guidelines, stressing the use of gender-sensitive indicators and sex-disaggregated data in the analysis, implementation and evaluation of activities as well as the development of means for relevant quality assurance and support.

II. Strengthening gender mainstreaming within projects and programmes at regional and country levels. The main responsibility for strengthening gender equality lies with national governments and the Commission has a key role to play in supporting the priorities and initiatives of partner country governments and civil society in their efforts to mainstream gender. Proposals to gender mainstream the ongoing EC policy dialogues with government and civil society are made, and Member States and partner countries are encouraged to build partnerships to facilitate information sharing and resource pooling with other international partners and organisations. The importance of identifying gender concerns at all stages of the programming and project cycle management is emphasised.

III. Gender capacity building which as an incremental process will underpin the Commission's capacity to effectively mainstream gender issues across board. A number of methods are being identified that can facilitate this process such as the provision of gender-sensitive training for all head quarter and delegation staff.

The Programme of Action is to be implemented during a five-year period (2001-2006). A midterm and a final evaluation will assess the achievements of the implementation of the Programme of Action at all levels of proposed activities.

A strong commitment from the EC, developing countries, Member States and other donors will demonstrate that greater gender equality is achievable through a systematic and coherent mainstreaming approach.

## TABLE OF CONTENTS

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE  
EUROPEAN PARLIAMENT  
Programme of Action for the mainstreaming of gender equality in Community Development  
Co-operation

### EXECUTIVE SUMMARY

1. Introduction
2. Gender dimensions in developing countries
3. The need for effective gender mainstreaming in EC development co-operation
4. European Community's specific role in gender mainstreaming.
  - 4.1. Global and regional policy framework
  - 4.2. EC policies, measures and activities
    - 4.2.1. Gender mainstreaming in EC development co-operation.
5. Areas and actions for incremental change
  - 5.1. Framework and objectives
    - 5.1.1. Analysing and integrating gender in the six priority areas for EC development co-operation activities
    - 5.1.2. Mainstreaming gender within projects or programmes designed at country or regional level
    - 5.1.3. Building the EC's internal gender capacity, tools and methods.
6. Implementation
7. Concluding Remarks

## 1. INTRODUCTION

The main objective of the European Community Development Policy<sup>1</sup> is to foster sustainable development designed to eradicate poverty in developing countries. Gender mainstreaming is an essential part of this. Actions in this area seek to achieve the systematic integration of the situations, priorities and needs of women and men into all policies and measures, while taking into account the effects policies and measures have on the situations of both sexes.

The facts on gender inequality in developing countries are still a cause for great concern. In spite of the different measures taken at global, regional and national level, there is an urgent need to redress gender imbalances, which continue to persist in developing countries. The equality between women and men needs to be promoted more effectively and more efficiently.

Although the European Community (EC) has achieved a certain level of progress in developing and complying with policy principles of gender inequality in development co-operation, best practices and lessons learnt need to feed into more specific reinforced actions to ensure increased levels of success. The EC is, as are many donors, facing so-called 'gender policy evaporation'<sup>2</sup> whereby good policy intentions fail to be followed through in practice. There is a clear need for the EC to prioritise positive actions and to integrate gender concerns into every level of development co-operation.

This Communication identifies three main areas of action in order to ensure that gender dimensions are mainstreamed in all EC development co-operation initiatives. It briefly outlines the rationale for more effective and efficient gender mainstreaming, highlights the measures taken by the Community so far and the very specific interventions required to achieve three overall objectives within the forthcoming five years (2001-2006).

## 2. GENDER DIMENSIONS IN DEVELOPING COUNTRIES

Gender inequality and poverty are clearly linked but those linkages are highly complex. The Human Development Report of 1995 estimates that among the 1.5 billion people living in poverty, 70 per cent are women. This disproportionate share of the world's poor faces unequal access to a political voice and development resources.

Evidence demonstrates the correlation between gender inequality and the general level of human poverty across countries. Those countries suffering from poor levels of gender equality, such as Sierra Leone, Niger, Burkina Faso or Mali, also rank lowest in the human poverty index. On the other hand, those countries with high levels of gender equality, for example Costa Rica, Singapore, Trinidad and Tobago, benefit from relatively lower levels of poverty.

Developing countries with gender-sensitive policies and practices fare better in areas of health, literacy rates, economic production and consensual decision-making processes. There is a high level of unrealised potentials in this domain. A 1998 UNICEF study focuses on ten 'high-achieving' developing countries, which have exceptionally high rates of literacy and education enrolment. For instance, Sri Lanka and the state of Kerala in India, have impressive levels of primary and secondary school enrolment, which is striking given that South Asia has a poor record in education levels, especially for women. An important feature of these 'high

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<sup>1</sup> COM (2000) 212 final of 26.4.2000.

<sup>2</sup> Development in Practice, Vol. 7, no 2, 1997.



achievers' was the relative degree of autonomy granted to women and the high levels of gender equality.<sup>3</sup>

In Kenya it was demonstrated that where women were given the same level of education and equal access to agricultural inputs as men, their yields increased by as much as 22 per cent. Sub-Saharan African countries, which failed to give girls access to education, have suffered a reduction in their economic growth by 0.7 per cent every year for the last 30 years.

The positive relationship between women's education, income levels and child-bearing/rearing activities has also been firmly established. In countries where women have greater access to education and enjoy high levels of financial autonomy, children benefit from improved nutritional levels and physical development. Conversely, restricted domestic autonomy for women translates into high rates of infant and child mortality. The figures in Annex II highlight some additional aspects of gender dimension in developing countries.

In some European countries with higher standards of living and greater investment in social development, gender advocates are allowed to focus on other complex issues of concern (political representation, institutional mainstreaming, enforcing quotas). In developing countries however, the extreme level of poverty has meant that attention has remained on basic issues of ensuring equal access and control of essential resources and rights. There is an urgent need to reinforce attention to gender in the developing countries and to redress some of the worst imbalances.

### **3. THE NEED FOR EFFECTIVE GENDER MAINSTREAMING IN EC DEVELOPMENT CO-OPERATION**

In the past, development programmes tended to focus exclusively on women and had little success in enhancing women's positions in society, improving their livelihoods or increasing gender equality. The shift in international discourse from Women in Development (WID) to Gender and Development (GAD) has had a crucial impact on how development interventions are planned, implemented and monitored (see Section 4.1.).

It is now recognised that the situation for both women and men has to be analysed in a disaggregated manner, and that both women and men have to be equally involved in setting goals, and elaborating strategies and plans so that development objectives are gender-sensitive. In this way, the priorities and needs of both sexes are addressed and taken into account. This makes for more effective, long-lasting, and sustainable equitable development co-operation with a positive impact in terms of meeting poverty reduction goals.

Systematically incorporating gender into all aspects of an institution or entity is a long-term and iterative process. Surely there is no single blueprint approach to gender mainstreaming that is applicable to all contexts. Each approach must be tailor-made to suit the context in which the mainstreaming is to occur. The process occurs over time in incremental stage.

There are two main synergetic approaches used in gender mainstreaming of development co-operation:

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<sup>3</sup> Education for all: Policy Lessons from High-Achieving Countries, S. Mehrotra, UNICEF Working Paper EPP EVL-98-05, UNICEF, 1998.

1. Supporting special projects or programmes that aim at enhancing the situation of women directly (in education, income generation, political power, legal rights, etc.). This method remains useful in addressing existing inequalities and demonstrating the *potential* of women, thereby rectifying discriminatory practices and stereotypes.
2. Integrating gender aspects into development co-operation policies and strategies through negotiations with partners in all phases of the project or programme cycle: preparation, implementation, monitoring and evaluation.

This Programme for Action addresses the second approach, specifying the different actions and instruments to be used to achieve full integration of gender aspects into EC development co-operation.

#### **4. EUROPEAN COMMUNITY'S SPECIFIC ROLE IN GENDER MAINSTREAMING**

The European Union is one of the major actors in international co-operation and development assistance. In total, the European Community (EC) and the Member States provide some 55 per cent of total international Official Development Assistance (ODA) and more than two thirds of grant aid.

The share of European aid managed by the Commission and the European Investment Bank (EIB) has gradually increased from 7 per cent thirty years ago to 17 per cent in 2000. The European Community has the political and financial responsibility for more than 10 per cent of total ODA world-wide, an increase from 5 per cent in 1985. It is also the largest donor of humanitarian aid.<sup>4</sup>

In their task of contributing to gender equality through development interventions, the European Commission and the Member States are guided by concrete commitments and resolutions made at global, regional and national level as presented below.

However, the results of putting policies into practice have not been fully measured as yet, either by the Commission or by Member States. Tools for the development of statistics and other data related to the actual spending of EC development aid on gender and development will be further developed under this Programme for Action. Work on input, output and performance indicators will be continued in the appropriate fora, such as the DAC of the OECD.

##### **4.1. Global and regional policy framework**

Important targets concerning improving gender equality were agreed at the following international events: the International Conference on Population and Development (ICPD) in Cairo 1994, the World Summit for Social Development (WSSD) in Copenhagen 1995 and the Fourth World Conference on Women (FWCW) in Beijing 1995.

The conference in Beijing was groundbreaking in shifting the discourse from Women In Development to Gender And Development. The principles established in the Platform for Action and the Beijing Declaration move away from addressing women's issues in isolation to a more complex discourse affirming that to address the root causes of gender inequality, both women *and* men have to be involved in the process. These principles were reaffirmed in

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<sup>4</sup> COM (2000) 212 final of 26.4.2000.

the final outcomes of the Special Session of the UN General Assembly on Women (Beijing Plus 5 Review) held in June 2000.

In 1996, the Development Assistance Committee of the OECD identified a number of quantified objectives for poverty eradication, among others narrowing the disparities between women and men.<sup>5</sup> The international development targets include gender equality to 'empower women and eliminate gender disparities in primary and secondary education by 2005.'

#### 4.2. EC policies, measures and activities

The Treaty of Amsterdam (1998, art. 3 paragraph 2) explicitly includes equality between women and men among the objectives of the European Union, specifying as well that positive action is a legitimate tool in pursuit of this goal.

The Charter of Fundamental Rights of the European Union<sup>6</sup> sets out the principle of gender equality in all areas, and includes a number of provisions whose aims are to promote equality between women and men.

In relation to development co-operation the European Community has agreed on a broad policy framework, presented in the following key documents: Communication to the Council and the European Parliament on Integrating Gender Issues into Development Co-operation, 18 September 1995 – COM (95) 423 final; Council Resolution of 20 December 1995 on Integrating Gender Issues in Development Co-operation; and Council Regulation No 2836/98 of 22 December 1998 on Integrating of Gender Issues in Development Co-operation. In the framework of this latter Regulation the Commission is committed to undertake a regular evaluation of financial operations relating to questions of gender equality in development co-operation.

The Community Framework Strategy on Gender Equality (2001-2005)<sup>7</sup> provides a framework for action within which all Community activities shall contribute to attain the goal of eliminating inequalities and promoting equality between women and men. All Commission departments are to adjust their policies (gender mainstreaming) and/or to implement concrete actions targeting women (specific actions). To this end the Inter-Service Group on Gender Equality led by DG Employment and Social Affairs has been reinforced. On the basis of this Community Framework, annual work programmes are being elaborated by the different Services. The information provided will be used for monitoring purposes and fed into the Annual Report required by the Community Framework.

##### 4.2.1. Gender mainstreaming in EC development co-operation

Gender mainstreaming is now a guiding principle in EC development co-operation policy which states that gender dimensions must be considered as a crosscutting issue and mainstreamed in the planning of all development initiatives<sup>8</sup>. The main regulations and agreements governing development co-operation (MEDA regulation 2000, ALA regulation 1992, the ACP-EU Partnership Agreement, Cotonou 2000) have included gender mainstreaming. Article 31 of the Cotonou Agreement explicitly calls for positive actions and the integration of gender approach and concerns 'at every level of development co-operation

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<sup>5</sup> Shaping the 21<sup>st</sup> Century: the contribution of Development Co-operation, May 1996.

<sup>6</sup> Proclaimed by the Presidents of the Council, the Parliament and the Commission at the beginning of the European Council meeting in Nice on 7 December 2000, OJ C 364 of 18.12.2000, p 1.

<sup>7</sup> COM (2000) 335 final of June 2000.

<sup>8</sup> COM (2000) 212 final of 26.4.2000.

including macroeconomic policies, strategies and operations'. Some 'sectoral mainstreaming' in development co-operation has been undertaken already. For example, in the area of *Education*, objectives for the coming year include work on a gender balance in civic education and the eradication of conventional gender discrimination in education.

The European Commission's Humanitarian Aid Office (ECHO) will, in its ongoing actions for 2001, continue to focus on advocacy and awareness-raising in relation to gender-related violations of human rights in armed conflict situations, and support targeted humanitarian assistance addressing the special needs of women. The initiative on Poverty and Environment, launched in 1998 in collaboration with UNDP, includes gender as a crosscutting issue, on the basis that securing land rights and titles for women will inevitably have positive repercussions for protecting the environment. Annex III gives additional examples of best gender practices in EC development co-operation.

These have been valuable EC institutional achievements to date on gender mainstreaming in development co-operation. One of these is a well-conceived strategy for implementation. Another concerns a good start on the integration of gender issues in overall policies and procedures such as project cycle management and training - in pilot countries and sectors as well as in projects and programmes. At country level, technical assistance and support missions worked on awareness raising, conducting action-research, identifying entry points for gender mainstreaming, and offering training programmes in gender sensitisation and capacity building. This assistance provided partner countries with advice on how to assess gender needs and develop strategies to pursue countries' agendas for gender mainstreaming.

The EU Member States Gender Expert Group operates with the specific purpose of discussing Community development policy in relation to gender issues. The group is comprised of Commission officials and Member States' government representatives and meets on an annual basis. One of the focus areas of the Group relates to the development and use of performance indicators.

In the past the Community used the EDF and Budget funds (National Indicative Programmes, Regional Indicative Programmes, special budget lines) for 'women'-specific projects or programmes in developing countries. For instance, following the International Conference on Population and Development in 1994, the Commission committed more than Euro 780 million to actions in line with the Cairo Programme of Action. The Community is currently focussing on six reproductive health areas, one of which is tackling gender-based violence and sexual abuse<sup>9</sup>.

In terms of gender mainstreaming the Commission holds only one particular instrument with a distinct catalytic function. The special budget line B7-6220 'Integration of Gender Issues into Development Co-operation' has been used to provide technical support for the greater inclusion of gender issues in Community development co-operation. Since 1998, Euro 10.2 million have been spent from this budget line. For 2001, the budget is Euro 2.02 million. The validity of the Regulation, the legal basis for this budget line, expires at the end of 2003. An overall evaluation of financial interventions in the area of gender equality will be launched in 2002 to allow an eventual proposal for a new Regulation for this special budget line.

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<sup>9</sup> The other areas cover: access to family planning services, pregnancy and childbirth, sexual and reproductive health of young people, limiting the impact of HIV/AIDS and STDs, and building partnerships with civil society.

Commission services have to continue efforts in terms of turning good policy into effective practise. This Programme of Action presents a way forward.

## 5. AREAS AND ACTIONS FOR INCREMENTAL CHANGE

### 5.1. Framework and objectives

In order for gender mainstreaming to become fully institutionalised in EC development co-operation the following three objectives need to be pursued:

1. Analysing and integrating gender into the six priority areas for EC development co-operation activities;
2. Mainstreaming gender within projects or programmes designed at country or regional level;
3. Building the EC's internal gender capacity.

The defined objectives are very specific, building on broad policy frameworks where basic principles are spelt out and agreed (see Section 4). In particular the objective related to internal capacity building could be seen as a channel or a method rather than a separate objective. However, as demonstrated from past experience, none of the broad policy elements can be fully turned into good practice without reinforced internal capacities. The Commission therefore takes the position to focus on clear targets for its own institutional capacity building.

#### 5.1.1. *Analysing and integrating gender in the six priority areas for EC development co-operation activities*

The European Community's Development policy<sup>10</sup> identifies six priority areas in which Community development co-operation activities will be concentrated. The different areas are highlighted below. The ranking order reflects priorities in terms of gender mainstream (focus, impact and timing) put on the different areas in relation to this Programme of Action. As gender mainstreaming is more advanced in the areas of social development, food security and rural development, a continued focus will remain in these areas in order not to lose momentum. As the transport sector often is put forward as a priority sector in country programming this area needs also to be further explored. **In each area a general perspective on gender mainstreaming will be presented. This will be followed by five specific actions, which will need to be undertaken for all six areas.**

1. *Supporting macro-economic policies, poverty-reduction strategies and social sector programmes in health and education:* There is a clear strong linkage between economic growth and investing in poverty eradication strategies. This inevitably draws in gender issues as a large majority of poor women are often doubly penalised, once on the basis of their sex and secondly for their disadvantaged social status. It is recognised that women in the short term were adversely affected by structural adjustment policies (SAPs) in the 1980s which often reduced national social welfare, health and education budgets ("Engendering adjustment for the 1990s"<sup>11</sup>). In future, gender analyses should assess whether macroeconomic (including governmental

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<sup>10</sup> COM (2000) 212 final of 26.4.2000.

<sup>11</sup> Report of the Commonwealth Expert Group on women and Structural Adjustment, 1991.

budgetary priorities and fiscal mechanisms) poverty eradication and securing livelihoods, and/or whether there is support to primary health, education, public health, sanitation, clean water and fuel, all of which impact directly on women's reproductive labour and hence on their ability to earn income and play their full role in society.

In the area of *Education*, inequality between the sexes is considerable and girls are often disadvantaged in terms of primary school enrolment, attendance and fewer employment opportunities when leaving school. In general, women are under-represented in decision-making structures of ministries and educational establishments. Cultural factors (favouring education of boys over girls), inadequate facilities and poor teaching materials further hamper progress. In response, development co-operation can play a key role by promoting the status of women, providing better facilities and educational material, and formulating analytical and statistical tools to assess the situation of girls. In its education and development policy, the EC has placed strong emphasis on promoting primary school education and in particular for the girl child.

In *Health*, next to the need to strengthen overall health systems, the urgency to target reproductive health and major communicable diseases, such as HIV/AIDS, malaria and tuberculosis, is seen as critical. It is recognised that in particular HIV/AIDS is not just a health issue on its own but it also impacts on other areas. HIV prevalence in rural areas affects the rising number of female headed households in which women are the primary income earner. Their deteriorating health or ensuing death inevitably jeopardises the survival strategies of the rest of the household.

2. *Food security and sustainable rural development*: Despite women playing a predominant role in agricultural production, they still lack equal access to and control over resources and secure land rights. They often have access to smaller, marginal and less fertile land for food production, which leads to lower yields and poor farming techniques. The lack of binding land titles further makes their livelihoods more tenuous and prevents them from getting access to important agricultural services and inputs which are necessary in improving subsistence and commercial food production. In its Development Co-operation Policy, the Commission has explicitly called for a multi-disciplinary approach in this area, of which gender is a fundamental part.
3. *Transport*: Despite appearing gender neutral, transport policies often replicate existing gender inequalities in a society by failing, for example, to note the different degrees of mobility allowed to each sex. Lack of attention to this issue hampers movement of women and provides restricted access to social services.
4. *Institutional capacity building, good governance and the rule of law*: Women are often marginalised in decision-making processes at political, economical, national as well as local level. This leads to gender-blind policies that prevent women from being active players and further entrench unequal relations of power in society in general. An important step is for developing countries to adopt and/or reform and vigorously implement a comprehensive legislative framework which affirms gender equality and gives priority to equal rights and principles of non-discrimination for women and men. The inclusion of gender equality in a legislative framework is an essential step to establishing or consolidating a state that enshrines and upholds the principles of equal rights, democracy and good governance.

The empowerment and autonomy of women and the improvement of women's political status is essential for the achievement of good governance and the rule of law for women and men. Women are largely underrepresented at most levels of government and have little progress in attaining political power in legislative bodies. The under-representation of women should be addressed in the work of building democracies and improving institutional capacities in the developing countries.

5. *Trade and development:* Gender analysis in the perspective of the social implications of globalisation is critical in helping to identify the mechanisms that ensure that trade and investment support gender equality. The benefits of trade expansion have been different for women and men, which to a large extent reflects domestic social structures of countries. The EC intends to support trade policy reforms in developing countries which include strategies aiming to ensure the economic, social and environmental sustainability of trade and investment policies. In preparation of the forthcoming WTO round in Qatar, November 2001, the EC will seek to promote international dialogue and incentives on trade and social development to enhance a better understanding and to ensure a positive interaction. In the context of the ACP-EU Partnership Agreement for instance, forthcoming trade negotiations will take account of the socio-economic impact, including gender aspects, of trade measures on ACP countries.
6. *Regional integration and co-operation:* Regional integration and co-operation contribute to the integration of developing countries into the world economy and play a decisive role in consolidating peace and preventing conflict. They alone enable the countries involved to face cross-border challenges, in particular in the field of environment and the use and management of natural resources - and thus directly affecting the livelihoods of men and women living in trans-boundary areas. Positive impact of actions in these areas will be demonstrated in terms of institution- and capacity building, and with regard to conflict prevention and resolution. Gender issues cut across these areas.

For all six-priority areas the Commission will, while prioritising its interventions according to specific needs, best practices and lessons learnt, undertake the following actions:

- review and analyse policy guidelines according to the situation for women and men in each of the EC priority areas;
- strengthen the use of gender-sensitive output indicators for sectoral policies and strategies, which will also be used for the identification, implementation and monitoring of specific development co-operation projects or programmes in this sector;
- reinforce, at Delegation level, capacity for sectoral policy dialogues with governments and civil society to bring gender issues and women increasingly to the forefront;
- strengthen methodologies for relevant quality assurance of gender-sensitive sectoral policies. The Inter-service Quality Support Group, where all Country Strategy Papers will be discussed prior to approval, will be assessing the gender aspect systematically.

5.1.2. *Mainstreaming gender within projects or programmes designed at country or regional level.*

The ultimate responsibility for the setting of priorities and implementation of agreed gender policies lies with the developing countries. The EC is strongly committed to supporting partner countries, governments, civil society and the private sector with the accelerated implementation of agreed development policies. In addition, the EC is committed to including gender equality goals in the mainstream of EC development co-operation policies, programmes and projects. To reinforce these processes, specific actions have been identified.

*Country and regional level:*

- Existing and forthcoming programming guidelines for development co-operation will be made gender-sensitive;
- Gender-sensitive programming guidelines will be provided to Delegations and partner countries who will be encouraged to address gender mainstreaming during the preparation and reassessment phases of Poverty Reduction Strategy Papers, Country Strategy Papers and annual progress reports;
- The capacity of Commission staff in Delegations shall be reinforced. They shall act as catalysts, supporting gender mainstreaming on a national or regional level and assisting in the preparation and application of country strategies in the specific local context;
- The capacity of national gender experts working at gender desks within various national ministries will be strengthened and linked to the internal capacity building activities for Commission officials (see 5.1.3.);
- In-country technical assistance shall be reinforced through improved participatory and action-based research and knowledge development, information support and skills development. Consultants and researchers are expected to provide valuable input in policy dialogue and implementation;
- The Commission will strongly advocate on-the-ground collaboration and co-ordination for the achievement of gender equality goals among other donors, including the Member States, UN agencies, the World Bank, USAID and others. To this end an active role will be taken in 'In-country gender donor co-ordination groups' or, in case such a mechanism does not exist, in the creation of a co-ordination body will be pursued.

*Project and programming level:*

- A basic methodological requirement laid down in the Beijing Platform for Action is that an analysis of the situation for women and men be carried out in any development intervention at project and programme level (pre-project baseline studies). This facilitates assessment of the potential impact of interventions on women and men, and of the most effective means of ensuring that both women and men can exert influence and participate in and benefit from the development process;
- The Commission will strengthen gender considerations during the whole project cycle for analysis of problems, the definition of target groups and beneficiaries, setting of objectives, formulation of indicators, monitoring;



- The Commission will systematically disseminate and utilise revised Evaluation Guidelines, whereby all projects and programmes need to be monitored and evaluated from a gender perspective. In this respect, evaluation teams should include as far as possible staff with relevant expertise or competence in gender issues;
- The Commission will further develop for specific projects and programmes gender-sensitive indicators and sex-disaggregated data to be used for planning, implementation, monitoring, evaluation and follow-up activities. The aim is to identify indicators which measure the integration of gender into the various management tasks (analyses, project formulation, appraisal, selection of experts, monitoring, evaluation, etc.), and to avoid indicators which simply “count words” (women, gender) in documents. The use of sex-disaggregated data will serve as a basis for highlighting gender differences and analysing them so that more innovative solutions and/or strategies can be devised to diminish gender inequalities.

### 5.1.3. *Building the EC's internal gender capacity, tools and methods.*

In spite of a limited workforce, a number of tools for gender mainstreaming have been developed over the years or are under development. Examples include a draft outline for a Gender Source publication, training materials adapted to various situations, and programming guidelines for the 9<sup>th</sup> EDF. Where applicable, they have been harmonised with OECD/DAC Guidelines on Gender Equality in Development Co-operation. Revising, developing, adapting and fine-tuning these tools should be an ongoing process. However, full completion of many of these instruments has not yet been achieved and others need to be refined.

- Gender Source publication (GSP), which is to serve as an information and reference material for all staff, will be elaborated. It contains best practices as well as relevant theories guiding gender equality work and relevant policy guidelines. The publication will be regularly updated. The revised version of the Project Cycle Management (PCM) Manual and training are to provide guidance on integrating best gender practices into normal working procedures. Gender-sensitive standard terms of reference will be used for pre-feasibility and evaluations.
- The Intranet site on Gender and Development will be upgraded and maintained. The site will contain the Gender Source publication, as well as the links to relevant Commission documents on gender;
- Gender-sensitive training at Headquarters and Delegations will be provided. The objective of the training is to sensitise staff to gender concerns and thereby improve the quality of development interventions in terms of meeting the different needs and interests of women and men in partner countries. Training will allow a degree of language coherence between different mainstreaming initiatives, as well as between the different GAD consultants. Training materials will be context-specific;
- Gender expertise of EC staff will be reinforced at the appropriate levels at both Headquarters and Delegations;
- On-call technical assistance with gender expertise will be strengthened at in-country, regional and Headquarters level. A pool of qualified external consultants will, on request, provide support and engage in dialogue with sectoral and geographical desks, regional officers and Delegations;

- Partnerships with Member States, UN agencies, civil society and other stakeholders may improve information-sharing in particular on good practices and methods.

## 6. IMPLEMENTATION

With this Programme for Action, the Commission has the responsibility of ensuring that the necessary awareness, commitment and capacity are developed. The main result will be that by 2006 all Commission staff working in the area of development co-operation, will have the professional competence - in dialogue with developing countries - to promote equality between women and men.

Reporting on the implementation of this Programme of Action will be an integral part of the annual report from the Commission to the Council and European Parliament on the implementation of Community Development Policy<sup>12</sup>. This Programme for Action will be monitored closely according to the Work plan presented in Annex VI and evaluated on a mid-term and end-term basis. These evaluations will examine the efficiency, effectiveness, impact and relevance of the gender mainstreaming measures and give recommendations for improved actions.

The special gender budget line being the major catalytic instrument for gender mainstreaming, it will be used, as in the past, for additional on-call technical assistance. In order to assure significant achievements in the area of methods development, applied research, specific studies, as well as training and sensitisation, the amounts available under the special gender budget line shall be maintained for 2001 and 2002.

Operational and innovative partnerships with Member States and other donors will be required to mobilise additional technical resources and expertise to this end.

## 7. CONCLUDING REMARKS

Success in meeting international development goals for poverty reduction will depend critically on the mainstreaming of gender equality in development co-operation. This Communication highlights the benefits and potentials that gender mainstreaming can bring to EC Development Co-operation and how this process can advance development co-operation efforts.

The aim is to support the efforts made by partner countries and the EC to promote gender equality and mainstreaming processes at country level, to integrate gender issues into development policies and to strengthen the Commission's own capacity in this area. It underlines that the ultimate responsibility of promoting equality between women and men lies with national governments.

The Work Plan of this Programme of Action attached in Annex VI will effectively guide the monitoring of EC development co-operation efforts to promote gender equality in partner countries. It will provide support to the priorities and initiatives of national partners, governments, NGOs and other civil society groups. At the same time, it also allows for coherent approaches between the EC's own measures to institutionalise gender mainstreaming and those of its partner countries.

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<sup>12</sup> Council Conclusion of 10 November 2000, The European Community's Development Policy, art. 43.

A strong commitment from the EC, developing countries, Member States and other donors will demonstrate that greater gender equality is achievable through a systematic and coherent mainstreaming approach.

## COM(2000) 335 final

### Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions — Towards a Community framework strategy on gender equality (2001-2005)

#### 1. INTRODUCTION

This Communication sets out the Commission's ideas towards a strategy on gender equality over the next five years. Its purpose is to establish a framework for action within which all Community activities can contribute to attain the goal of eliminating inequalities and promoting equality between women and men, as set out in Article 3(2) of the Treaty.

In order to prepare this Communication, the Commission analysed the following key aspects of policy at Community level in this area over the past years:

- the legislative *acquis* in the area of equal opportunities and the relevant case-law of the European Court of Justice;
- the Community commitment and follow-up to the Platform for Action adopted at the Fourth UN World Conference on Women in Beijing in 1995;
- the implementation of the past Community programmes on equal opportunities for women and men and, in particular, of the medium-term Community action programme (1996-2000), which reinforced the gender mainstreaming strategy;
- the Structural Funds' contribution to gender equality over the last ten years through specific actions, in particular the NOW initiative, and the new regulations (2000 - 2006), as well as the valuable contribution of the European Employment Strategy since 1997;
- the initiatives in the field of external relations, development cooperation policies as well as the promotion and protection of the human rights of women;
- the fresh impulses provided by the European Parliament and the Council; and
- the strengthened provisions of the Amsterdam Treaty on equality between women and men<sup>1</sup>.

#### Gender equality today: towards an inclusive democracy

Democracy is a fundamental value of the European Union, Member States, EEA States and applicant countries. It is also a key part of external development policy in the Union. Its full realisation requires the participation of all citizens women and men alike to participate and be represented equally in the economy, in decision-making, and in social, cultural and civil life.

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<sup>1</sup> Article 2, Article 3, Article 13 and Article 141 of the Treaty of Amsterdam amending the Treaties establishing the European Communities, signed at Amsterdam, 2 October 1997.

The EU has a long-standing commitment to promoting gender equality, enshrined in the Treaty since 1957. The Community legal framework ensures that women and men are equal before the law. The promotion of gender equality is an important element of the European Union's external relations and of its development cooperation policies and, in particular, the promotion and protection of women's rights is an integral part of the EU's human rights policies in third countries. Moreover, equal treatment legislation is a firmly established integral part of the *acquis communautaire* that countries applying for EU membership have to respect.

Considerable progress has been made regarding the situation of women in the Member States, but gender equality in day-to-day life is still being undermined by the fact that women and men do not enjoy equal rights in practice. Persistent under-representation of and violence against women, *inter alia*, show that there are still structural gender inequalities.

This situation can be tackled efficiently by integrating the gender equality objective into the policies that have a direct or indirect impact on the lives of women and men. Women's concerns, needs and aspirations should be taken into account and assume the same importance as men's concerns in the design and implementation of policies. **This is the gender mainstreaming approach, adopted in 1996 by the Commission<sup>2</sup> which the Commission intends to operationalise and consolidate through this proposal.**

In parallel to gender mainstreaming, persistent inequalities continue to require the implementation of specific actions in favour of women. The proposed framework strategy is based on this dual-track approach.

## **2. THE STRATEGY**

### **2.1. A gender equality framework strategy to embrace all policies and a programme in support of the framework strategy**

Future Community work towards gender equality will take the form of a comprehensive strategy, which will embrace all Community policies in its efforts to promote gender equality, either by adjusting their policies (pro-active intervention: gender mainstreaming) and/or by implementing concrete actions designed to improve the situation of women in society (reactive intervention: specific actions).

This integrated approach marks an important change from the previous Community action on equal opportunities for women and men, mainly based on compartmental activities and programmes funded under different specific budget headings. The Framework Strategy on Gender Equality aims at coordinating all the different initiatives and programmes under a single umbrella built around clear assessment criteria, monitoring tools, the setting of benchmarks, gender proofing and evaluation.

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<sup>2</sup> Commission Communication of 21 February 1996 'Incorporating equal opportunities for women and men into all Community policies and activities' COM(96) 67 final.

**The new approach will raise the profile of the wide range of existing Community activities for the promotion of gender equality, ensure their global consistency by identifying overlaps thus optimising their efficiency and rendering them visible inside and outside the Commission. A framework global strategy will also ensure that results can be monitored and disseminated better.**

In order to develop the horizontal and coordinating actions (such as networking, awareness-raising, analysis and assessment tools, monitoring, reporting and evaluation) required to implement successfully the framework strategy, the Commission is proposing a supporting programme, financed under budget heading B3-4012. This Programme, to be adopted by a Council Decision, is based on Article 13 of the Treaty establishing the European Community<sup>3</sup>.

## **2.2. Subsidiarity and complementarity**

While Member States, EEA States and applicant countries are pursuing gender equality policies, important discrepancies remain in implementation. This is true for legislation, institutional mechanisms, specific initiatives (e.g. for positive action) and public awareness. Past programmes and initiatives at Community level have assisted Member States and NGOs in developing more effective gender policies (added value).

The Community however will not aim to pursue those activities that, by reason of nature and/or extent, can be better performed at national, regional or local level.

Complementarity amongst the different Community actions and between the Framework Strategy and Member State's activities will be ensured to avoid overlaps<sup>4</sup> and to draw maximum benefit from the results obtained.

## **3. SETTING THE OBJECTIVES**

In order to deliver its full potential, the Community Framework Strategy will address the challenges of bringing about the structural change required for achieving gender equality. The Commission has identified five inter-related fields of intervention for the framework strategy. Within each of them operational objectives will be pursued to chart the course towards gender equality over the next five years. Under the framework strategy, all Community gender related initiatives will be explicitly linked to one or more of the following areas of intervention: economic life, equal participation and representation, social rights, civil life and gender roles and stereotypes.

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<sup>3</sup> The Commission has already announced its intention to propose a new programme on gender equality, with a specific budget, in its Communication on Article 13 (COM(1999) 564 final of 25.11.1999).

<sup>4</sup> For example, the Community Programme to combat discrimination (2001-2006), the Community initiative programmes, Structural Funds, rural development programmes, the Fifth RDT Framework Programme, other Union and Community programmes, such as SOCRATES, LEONARDO and YOUTH).

Gender equality dimension in the enlargement of the European Union as well as in the Community external relations and development cooperation policies will permeate all areas of intervention of the framework strategy.

The next section describes operational objectives and target actions as a non-exhaustive illustration of the potential of the Framework Strategy. The actions will be implemented by the Commission, the Member States and key actors (NGOs, social partners), as appropriate.

### **3.1. PROMOTING GENDER EQUALITY IN ECONOMIC LIFE**

The European Council of Lisbon<sup>5</sup> invited the Commission and the Member States to further all aspects of equal opportunities in employment policies, including reducing occupational segregation and helping to reconcile working and family life, in particular by setting a new benchmark for improved childcare provision. Furthermore, the Lisbon European Council set quantitative targets of the utmost importance for achieving gender equality in economic life, such as that of raising women's employment rate from the average figure of 51% today to more than 60% by 2010. In this context, particular attention should be paid to the full integration of women into the new economy. It is also essential to foster and mainstream ways of giving women equal access to the knowledge-based economy as well as helping them to participate in it as information and communication technologies (ICT) are affecting employment in all sectors more and more

Structural funds constitute the Community's main financial instrument for fostering cohesion, improving employment prospects and promoting sustainable development. They already serve as an important tool for promoting gender equality. The new regulation of the Structural Funds<sup>6</sup> already provide for greater weight of gender equality in the process of programming, implementing, monitoring and evaluation.

#### **3.1.1. Operational objective: Strengthen the gender dimension in the European Employment Strategy**

##### **Actions:**

With a view to deepening the Luxembourg employment process, the framework strategy will:

- Encourage the review of tax benefit systems in view of reducing disincentives for women entering the labour market.

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<sup>5</sup> Presidency conclusions (Lisbon 23 and 24 March 2000): <http://ue.eu.int/en/Info/eurocouncil/index.htm>.

<sup>6</sup> Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds, OJ L 161, 26.6.1999, p. 1-42.

- Encourage lifelong learning and access to active labour market measures for women.
- Promote the employability and the access of women to IT jobs, particularly by enhancing participation of women in relevant education and training.
- Support further development and coordination of national statistical systems where required, in order to allow for better monitoring of gender related issues in the European Employment Strategy (supporting programme).
- Support an expert group on gender equality in the economy to assist the Commission in these tasks (supporting programme).

3.1.2. *Operational objective: Improve the use of the Structural Funds for the promotion of gender equality*

**Actions:**

- Propose a Commission communication on the implementation of gender mainstreaming in the new programming documents, including highlighting of best practice.
- Improve gender mainstreaming in the Structural Funds and their Community initiatives (EQUAL, Interreg, Urban, Leader). Strengthen cooperation mechanisms within the Commission in order to monitor the implementation of gender mainstreaming.
- Provide support at Community level and encourage Member States to provide support for information and awareness-raising actions to promote equality between women and men in the framework of the Structural Funds. Develop links between the actions funded by the Structural Funds and the rural development measures funded by the Guarantee section of the EAGGF, and other Community policies that also promote gender equality.
- Support desegregation of the labour market, in particular, via the human resource Community initiative EQUAL.
- Support the setting up of a network of persons responsible in the Member States for issues concerning equality in the Structural Funds.

3.1.3. *Operational objective: Develop strategies to encourage gender mainstreaming in all policies which have an impact on the place of women in the economy, (e.g. fiscal, financial, economic, educational, transport, research and social policy)*



### **Actions:**

- Propose a Commission communication on social issues in public procurement.
- Integrate gender analysis in development cooperation policy into the design, implementation and evaluation of measures, especially those relating to macro-economic policies and poverty reduction.
- Develop dialogue with the top management of enterprises operating in Europe, in particular in cooperation with the social partners, on their contribution to gender equality in economic life.
- Create a European label (equality prize or certificate) to be awarded annually to enterprises which have developed good practice to promote gender equality (supporting programme).

### **3.2. PROMOTING EQUAL PARTICIPATION AND REPRESENTATION**

The persistent under-representation of women in all areas of decision making marks a fundamental democratic deficit which requires Community level action.

Along these lines the EU Council adopted on 22 October 1999 conclusions<sup>7</sup> on the subject of gender balance in all decision-making processes and took note of the set of indicators for measuring gender balance in political decision-making. The Commission's report on the implementation of the Council Recommendation on the balanced participation of women and men in decision-making<sup>8</sup> concluded that the overall outcome of the policies applied since 1996 was positive. However it did not match the expectations set out in 1996 and, therefore, further action was required.

In the Commission, the first concrete steps to set binding targets date from February 1999, when the Commission Communication<sup>9</sup> "Women and science - Mobilising women to enrich European research" was adopted, which set a target of at least 40% for women's participation on the panels, consultative committees and in fellowship programmes of the fifth Community Framework Programme for Research and Development. In its Decision on gender balance in expert groups and Committees set up by the Commission of May 2000, the Commission states its intention to have at least 40% of each sex in each of its committees and expert groups. To help meet this target, the Commission requests Member States to present candidates of both sexes for membership in those bodies.

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<sup>7</sup> Conclusions of the 2208th Council meeting, Luxembourg, 22 October 1999.

<sup>8</sup> COM(2000) 120 final of 7.3.2000.

<sup>9</sup> COM(1999) 76 final of 18.2.1999.

In its relations with third countries, and more particularly its human rights policies, the Community actively promotes the equal participation of men and women in civil society, in economic life and in politics and promotes the participation of specific groups, particularly women, in the electoral processes.

**3.2.1. Operational objective: Improve the gender balance in political decision-making**

**Actions:**

- Encourage the development of networking of elected women at European, national, regional and local levels, by encouraging the networking of Parliamentary committees on equal opportunities for women and men in the EU Member States and in the European Parliament (supporting programme).
- Promote awareness of gender discrimination and the need for a gender balance in civic education.
- Assess the influence of electoral systems, legislation, quotas, targets and other measures on gender balance in elected political bodies (supporting programme).
- Support schemes to enhance developing countries' institutional and operational capacities for integrating gender issues at national and local level and in civil society, including legislative and administrative actions on equal rights for women and men.
- Monitor improvements in the gender composition of committees and expert groups set up by the Commission; promote the implementation of Council Recommendation 96/694 and monitor its follow-up.
- Conduct awareness-raising activities addressed to citizens on the need for a gender balance both in elected public bodies and inside the political parties' structures as well as to encourage women to become politically active with a particular view to the European Parliament elections in 2004 (supporting programme).

**3.2.2. Operational objective: Improve the gender balance in economic and social decision-making**

**Actions:**

- Monitor and evaluate the transition from education and training to working life, recruitment and career development of potential female top managers.
- Establish and maintain a full set of regularly updated statistics on women in decision-making positions in the economy and society with data on management, industries' and social partners' organisations as well as major NGOs (supporting programme).

### 3.2.3. *Operational objective: Improve the gender balance in the Commission*

#### **Actions:**

- Monitor the results of the Commission departments efforts to promote a gender balance in decision-making positions, including the development of timetables, indicators and benchmarks.
- Develop strategies, as part of the Commission Reform, for improving use of time and organisation of work at all levels, including management level.
- Continue and enhance gender-specific training, awareness raising and information in all Commission departments, in particular at decision-making level and in Commission delegations, and introduce gender issues as a regular element of other management training.
- Gender-assess and improve the present systems for recruitment and promotion in Commission departments, in particular by ensuring that there is a gender balance in juries and on selection boards and by examining the content and methodology of the entrance competitions for possible gender bias.

### **3.3. PROMOTING EQUAL ACCESS AND FULL ENJOYMENT OF SOCIAL RIGHTS FOR WOMEN AND MEN**

Equal access and full enjoyment of social rights are among the pillars of democratic societies. Yet, many women do not have equal access to social rights either because some of these rights are based on an outdated male breadwinner model or they do not take into account that women predominantly carry the burden of having to reconcile family and professional life. This is evident in many social protection systems, which in turn is one of the explanations of the feminisation of poverty in the European Union (career-breaks, part-time work, lack of education and training). In many cases, women just do not access or have access to the proper information about existing social rights. Some of these rights have already become European legislation. The actions will aim at improving the application of Community legislation in particular on social protection and in the areas of parental leave, maternity protection and working time. In addition, the actions will include better information dissemination.

Women in developing countries often experience discrimination in access to nutrition, health care, education, training, decision making, and property rights. The Council Regulation on integrating gender issues in development co operation<sup>10</sup> underlines that redressing gender disparities and enhancing the role of women are crucial for both social justice and development.

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<sup>10</sup> OJ L 354, 30.12.1998.

**3.3.1. Operational objective:** *Improve the knowledge and monitor the relevant Community legislation in the social sphere (parental leave, maternity protection, working time, part-time and fixed-term contracts)*

**Actions:**

- Propose a directive based on Article 13 of the Treaty to ensure equal treatment for women and men in matters other than occupation and employment.
- Ensure the follow-up and assessment of implementation in the Member States of existing legislation in the social sphere.
- Support awareness of the EU legislation in the social area and the case-law amongst NGOs, the social partners, labour inspectorates and the legal professions (supporting programme).
- Support information and dissemination activities regarding EU social legislation, aimed at EU citizens (supporting programme).

**3.3.2. Operational objective:** *Monitor the integration of a gender perspective in the design, implementation and evaluation of Community policies and activities influencing the daily life of women and men, (such as: transport, public health, external relations, including human rights policies and the Community programme to fight discrimination based on Article 13 of the Treaty).*

**Actions:**

- Mainstream gender equality within the area of social protection and in respect of all objectives of social protection identified by the Council.
- Mainstream a gender perspective in all Community measures to prevent and combat social exclusion, particularly in view of the increasing feminisation of poverty.
- Improve the knowledge and understanding and, if required, propose new Community legislation in the social field
- In the area of development cooperation, support actions and programmes which facilitate equal access of women and men to nutrition, education, health care, reproductive rights, property and justice.
- Support national awareness-raising campaigns that promote care as a task for both men and women (supporting programme)

### 3.4. PROMOTING GENDER EQUALITY IN CIVIL LIFE

The aim of promoting equality in civil life relates to the question of the full enjoyment of human rights and fundamental freedoms by both women and men, regardless of race or ethnic origin, religion or belief, disability, age or sexual orientation. It also relates to strengthening and furthering the development of the enforcement mechanisms of the equal treatment legislation, together with better awareness of and training on equality rights and the human rights of women.

Actions will include training on equality legislation for the legal professions as well as informing NGOs on this legislation. Moreover, particular attention needs to be paid to women who are subject to multiple discriminations (such as migrant women or women with disabilities, older women, women at risk of social exclusion, etc) or who face violence and/or sexual exploitation.

The European Union has developed a European-wide policy to combat violence against and trafficking in women. One central instrument is the STOP<sup>11</sup> programme, set up to reinforce cooperation against trafficking in women and children. This was followed by the DAPHNE initiative and the new DAPHNE programme (2000-2003), both aiming at improving information and protection of victims of violence. An awareness-raising campaign to combat domestic violence against women was launched in 1999. A survey carried out by the Commission<sup>12</sup> shows the need for further action in the area at EU level.

**3.4.1. Operational objective:** *Monitor Community law and case law on equal treatment of women and men and, if required, propose new legislation.*

#### **Actions:**

- Review Directive 75/117 and explore possibilities for its improvement, in particular, look at the functioning of legal remedies and call on the Member States to reinforce the role and powers of the labour inspectorate bodies with regard to equal pay legislation.
- Conduct research and collect data on the gender dimension of health and safety at the workplace. On the basis of it, explore the need for adapting legislation.
- Support specific information and training on equality legislation and the human rights of women aimed at the legal professions, labour inspectorates and social partners in the EU and in the applicant countries (supporting programme)
- Monitor the development of structures in support of the implementation of the *acquis communautaire* in gender equality matters in the applicant countries (supporting programme).

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<sup>11</sup> Joint Action of 29 November 1996 adopted by the Council - OJ L 322, 12.12.1996.

<sup>12</sup> Eurobarometer 51.0 of June 1999.

- Support a network of legal experts in the Member States and the applicant countries to assist the Commission in the implementation of the tasks related with this objective.
- Support information activities targeted at NGOs to increase awareness on Community legislation on equal treatment for women and men (supporting programme).

#### 3.4.2. *Operational objective: Promote women's rights as human rights*

##### **Actions:**

- Support awareness-raising actions and campaigns in the EU and in the applicant countries aimed at empowering women by enforcing their human rights, in particular women facing multiple discrimination (especially migrant women and women from ethnic minorities).
- Support networking in order to systematically collect comparable data on gender-related violations of human rights and sex discrimination cases in the Member States and in the applicant countries (supporting programme).
- Strengthen cooperation and exchanges of information on human rights of women, with relevant NGOs and international organisations, within the European Union, the applicant countries and in the context of development cooperation.
- Support awareness-raising of gender-related violations of human rights in armed conflict situations.
- Promote that the specific needs and/or particular situations of women are duly taken into account, where relevant, within initiatives in the field of asylum and in the field of entry and stay of third country nationals on the territory of the Member States.

#### 3.4.3. *Operational objective: Fight gender-related violence and trafficking of human beings for the purpose of sexual exploitation*

##### **Actions:**

- Strengthen and support the fight against and prevention of violence against women, in particular through the DAPHNE and STOP programmes.
- Support information campaigns in the countries of origin, transit and destination outside the EU, in particular the applicant countries, as well as within the EU itself in cooperation with national authorities and NGOs.
- Promote training and awareness raising of the police and judiciary; support their cross-border cooperation and the exchange of information and best practices

within the EU and, in particular, between the EU and the candidate countries to combat trafficking in human beings.

- Grant short-term residence permits to victims of trafficking for the purpose of sexual exploitation in accordance with the principles set up in the 1998 Commission communication on future actions in the fight against trafficking in women.
- Continue to develop action to combat domestic violence against women in the EU, in the applicant countries and in third countries (supporting programme).
- Support research, data collection and dissemination of information on violence against women, in the EU and in the applicant countries

### **3.5. PROMOTING CHANGE OF GENDER ROLES AND STEREOTYPES**

This field of intervention addresses the need to change behaviour, attitudes, norms and values which define and influence gender roles in society through education, training, the media, arts, the culture and science. Elimination of existing cultural prejudices and societal stereotypes is paramount for the establishment of gender equality.

Perpetuating negative or stereotyped images of women, in particular in the media and computer-mediated information and entertainment, in advertising, and in educational material, does not provide an accurate or realistic picture of women's and men's multiple roles in and contributions to a changing world. Without detriment to their freedom of expression, the media and culture industries should, as opinion formers and means of shaping values, contribute to changing gender stereotypes in the public perception and to presenting a fair portrayal of gender.

#### *3.5.1. Operational objective: Raise awareness about gender equality issues*

##### **Actions:**

- To support strengthened efforts to eradicate stereotypical gender discrimination in education, for example in educational materials, and to develop good practice in this field
- Develop awareness-raising activities on women's contribution to the European project and European culture and the importance of gender equality in our modern democratic society.
- Organise every year a European week on a priority topic of the framework strategy, in cooperation with the Member States authorities (supporting programme).

3.5.2. **Operational objective:** *Overcome gender stereotypes in and via relevant Community policies*

**Actions:**

- Monitor the integration of a gender perspective in policies of particular relevance in overcoming gender stereotypes such as education, training, culture, research, media and sport policies and promote equality through all future programming phases of the current Community programmes, such as Socrates, Leonardo, Youth, Culture, Research and other relevant programmes and initiatives.
- Discuss with the existing national ethical committees the inclusion of a gender dimension in their remit as well as the support for networking of National Ethical Committees.
- Ensure, where appropriate, that Commission departments take into account in their information policies specific women' needs and perspectives, in close cooperation with Commission's representations in Member States.
- Promote the exchange of views and good practices in the media and create a group of media representatives to assist the Commission to implement the talks under this objective of the framework strategy (supporting programme).

**4. TOOLS AND MECHANISMS:**

Policy-making for gender equality needs specific methods and tools (such as networking, data collection, training or gender impact assessment). The supporting programme of the Community framework strategy will analyse the effectiveness of the existing instruments and support the development of new and more efficient ones. This will be accompanied by the development of common indicators and the setting of benchmarks to allow for more efficient monitoring and evaluation. Activities and strategies might, in this way, be refocused if deemed necessary, or new ones developed during the period covered by the framework strategy.

**4.1. Reinforcing cooperation with the EU national gender equality authorities and coordination of the activities**

The framework strategy will actively encourage the exchange of good practice among the EU and the EEA Member States and the applicant countries involving governments, social partners and the civil society.

In order to support and improve the synergy among national policies on gender equality and to create Community added value, the supporting programme of the framework strategy will financially support a range of initiatives, to be developed by the Member States authorities in cooperation with all relevant national actors, particularly NGOs and social partners, on particular topics with a European interest and dimension.



Once a year, the Commission will organise a high-level meeting with senior officials from the Member States with responsibility for gender mainstreaming.

The Commission Advisory Committee for Equal Opportunities for Women and Men will continue to assist the Commission throughout the implementation of the framework strategy. Its role will be vital in providing expertise and information on Member States gender related policies, in particular as regards the benchmarking, monitoring and reporting exercises of the framework strategy.

#### **4.2. Reinforcing of Commission structures**

The Group of Commissioners on Equal Opportunities will continue to play a major role in giving political impetus to the Commission's gender mainstreaming and equal opportunities strategy and actions. It will also continue to ensure adequate coordination between the departments involved and will monitor progress being made in the implementation of the Framework Strategy and, if necessary, make appropriate recommendations.

The Commission's Inter-service Group on Gender Equality will coordinate the activities of the various Commission departments regarding the implementation of actions covered by the Framework Strategy on Gender Equality in their respective policies as well as the annual work programme for their respective policy area. Within the Inter-Service Group, the Commission departments will develop, implement, monitor and evaluate a set of gender indicators and benchmarks and report regularly on the progress made to the Group of Commissioners on Equal Opportunities. This will also include further development of gender impact analysis and assessment of Community policies, gender mainstreaming training of officials.

#### **4.3. Reinforcing cooperation among the Community institutions**

The Commission will encourage inter-institutional cooperation amongst all Community institutions in order to facilitate and enhance gender mainstreaming. The Commission will also facilitate networking among European research institutions on gender equality.

#### **4.4. Strengthening partnership**

Experience in running earlier Community measures and programmes has shown that the commitment and participation of the traditional players are not enough to achieve the aim of gender equality. It is essential to involve key actors from economic and social life and strengthen the partnership aspect.

#### *4.4.1. Cooperation with the social partners at European level*

The Amsterdam Treaty has assigned a major role to the European social dialogue and has given the social partners substantial responsibilities and powers. The Commission confirms its commitment to encourage the social partners to make a full contribution to promoting gender equality, in particular to assess the impact of their framework agreements. The Commission, for its part, will support a network of social partners' representatives on the question of gender equality in businesses, and information and awareness-raising measures, in partnership with the social partners, on the pay gap between women and men.

#### *4.4.2. Cooperation with NGOs*

NGOs are an important element of civil society and major players in the promotion of a gender democracy. The existing forms of Commission-NGOs cooperation and partnership will be the basis for enhancing the dialogue and improving mutual information and exchange of best practice regarding gender activities and policies. It will also encourage NGOs which do not specialise in women's issues to integrate a gender perspective in the activities.

#### *4.4.3. Cooperation with other international organisations*

Cooperation with other international organisations such as the United Nations (follow-up to the Beijing Platform for Action), the Council of Europe (Steering Committee for Equal Opportunities) and the OSCE (new action plan on gender equality) will be encouraged in order to build on the expertise of these organisations and avoid duplication on the ground.

### **4.5. Setting indicators and benchmarks**

The setting of indicators and benchmarks is a determining factor for the success of the Framework Strategy in order to make the progress achieved measurable and visible and to monitor trends and translate idealistic ultimate goals (the strategic objectives) into realistic stages or phases (the operational objectives). Indicators and benchmarks provide incentives for greater sustained efforts, help determine responsibility for achieving targets and, finally, allow progress to be rewarded by general recognition.

With regard to the strategic objective of equality in the economy, the Framework Strategy will use the indicators already developed within the European employment process and will provide support for them to be supplemented and used regularly. Targets and benchmarks set by the European Council in Lisbon will be regularly monitored. The implementation of the Framework Strategy will regularly be the subject of reports prepared using the indicators developed by Council in the areas of decision making and reconciling working and family life.

In order to monitor progress made in meeting the various strategic objectives, systematic production and availability of statistical data both at EU and national levels will be supported. The range of harmonised and comparable data should be enlarged by carefully selecting the statistics allowing effective monitoring of the Framework Strategy.

#### **4.6. Ensuring information, reporting and evaluation**

##### *4.6.1. Information*

The Framework Strategy will be accompanied by an integrated information strategy, providing for an Internet web-site with information on the different initiatives of the supporting programme and on the gender-related activities of the Commission departments

##### *4.6.2. Reporting*

The Commission will be accountable for the implementation of the framework strategy and will regularly report on it. To this aim, the approach of the Annual Report on Gender Equality will be revised to include more information on the implementation of the framework strategy (*inter alia*, budgetary information on allocation and expenditure) and on developments at national level, including progress in reaching the benchmarks, and assessment of the results achieved.

Every year, the Commission will adopt the annual work programme of the framework strategy, including the priority actions that will be developed under the in the current year. A global report, covering the entire implementation of the Framework Strategy as well as the results of the external evaluation (see below), will be adopted by the Commission.

##### *4.6.3. Evaluation*

All actions implemented under the framework strategy on gender equality will be subject to continuous internal evaluation.

The framework strategy will be subject to an independent external evaluation, which will start as soon as possible after its adoption. The external evaluation team will provide the Commission with an intermediate evaluation report. This external report will be annexed to the Commission interim evaluation report on the framework strategy and its supporting programme that will be submitted to the European Parliament, the Council, the Economic and Social Committee and the Committee of Regions by the end of December 2003.

A final external evaluation report will be prepared by the external evaluators. This will be annexed to the final evaluation report that the Commission will adopt and forward to the other European institutions by the end of December 2006, at the latest.



**COM(98) 726 final**

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL  
AND THE EUROPEAN PARLIAMENT**

**FOR FURTHER ACTIONS IN THE FIGHT AGAINST  
TRAFFICKING IN WOMEN**

## GENERAL INTRODUCTION

### CONTEXT

Since the Commission's first Communication at the end of 1996 on trafficking in women for the purpose of sexual exploitation<sup>1</sup>, public concern about this matter and , in the same period, international co-operation have risen considerably.

In particular, the European Institutions (Council, Parliament and Commission) as well as European NGOs have actively contributed, , to the increase in the general awareness of this unacceptable violation of women's human rights. A number of initiatives have been taken either at European level or in association with partners in third countries and with specialised organisations.

Despite this unprecedented mobilisation, there is ample evidence that large numbers of women continue to be trafficked into EU Member States and into other developed countries. They are often forced into prostitution, frequently in conditions akin to slavery. The main flow is coming from/or through the candidate countries.

This trafficking is often carried out by professional criminal organisations. New networks are created constantly, and their methods become increasingly ruthless. This is a worrying trend for the European Union. Projects in this field, as well as multidisciplinary exchanges of information by experts and research work have, over the last two years, led to a better understanding of this type of organised criminal activity and have enabled certain shortcomings in our efforts to be identified.

The objectives of this new Communication are:

- to assure that the question of trafficking in women for sexual exploitation remains high on the political agenda of the EU and that Member States are encouraged to fully implement their legal obligations.
- to reinforce international and European co-operation including both governments and NGOs in countries of origin, transit and destination.
- to strengthen a multi-disciplinary approach focusing on both prevention, research, law-enforcement and an effective sentencing of traffickers, as well as on support to victims
- to address a clear message to the candidate countries, in the context of the accession process, of the necessity to take the national measures and to cooperate with the EU already now on this issue.

This communication responds to requests made by the European Parliament to report back, before the end of 1998, on the progress made in relation to the first communication of 1996. (Waddington report of 27/11/97). It seeks therefore :

- To indicate the present state of play in the fight against trafficking in women and to identify gaps ;

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<sup>1</sup> COM(96)567 final of 20.11.1996

- To recommend a number of new targeted initiatives as well as the deepening of certain existing actions to the various parties.

## SCOPE

In its 1996 Communication, the Commission defined trafficking as the transport of women from third countries into the European Union (including perhaps subsequent movements between Member States) for the purpose of sexual exploitation. It also noted that women can enter either illegally or legally<sup>2</sup> into the European Union.

The Communication added that

"Trafficking for the purpose of sexual exploitation covers women who have suffered intimidation and/or violence through the trafficking. Initial consent may not be relevant, as some enter the trafficking chain knowing they will work as prostitutes, but who are then deprived of their basic human rights, in conditions which are akin to slavery."<sup>3</sup>

The Commission considers that this definition, although not perfect, covers the key elements of trafficking in women<sup>4</sup>. However it is important to take into account new developments by including also women who are trafficked abroad and forced to perform other forms of commercialised sex than prostitution, as well as women who are forced into marriage for the purpose of sexual commercial exploitation.

## RECENT TRENDS IN TRAFFICKING IN WOMEN

Despite the continuing difficulties in collecting statistical data in this area, most actors involved in combatting trafficking in women agree that it is a growing phenomenon. The traditional flow between certain third world regions (Northern and Central Africa, Latin America, Asia) and Western destination countries continues. However, the most striking factor, which gives rise to great concern, is the increase in the numbers of women trafficked into the EU coming from Central and Eastern European countries. The majority of these countries have according to their own law enforcement officials become, to various degrees, both countries of origin, transit as well as countries of destination. Many women originating from the Newly Independent States are being trafficked via the applicant States before ending up in EU Member States. All Member States are, to greater or less extent, affected by trafficking in women. Law enforcement officials of several Member States have also noted the appearance of major criminal networks in this area. There seems to be links with other forms of criminality.. High profits gained by criminal organisations involved in trafficking obviously lead to money

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<sup>2</sup> Either because they come from countries whose nationals are not required to hold a visa in order to enter the territory of a Member State for a short period stay, or are in possession of a short stay visa or even of a longer term work permit, such a work permit being in fact a cover for prostitution.

<sup>3</sup> This definition is largely based on the one contained in the Joint Action of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children (97/154/JHA; OJ of the EC n° L63/2 of 4.03.1997)

<sup>4</sup> As in the first Communication, it is not intended to address here the issue of women who are not put under duress by a third party to travel to work as prostitutes across borders, nor to address the questions of black market labour in other sectors in the European Union.

laundering activities and often imply the creation of front companies involved in licit activities. Sources have also reported that trafficked women, , tend in recent years to be moved regularly from one Member State to another so as to satisfy the clients with new prostitutes and to make it more difficult for their victims to be detected by the police or by the social services.

#### METHODS USED BY TRAFFICKERS

The recruitment of the women takes various forms. Traffickers profit from the fragile social and economic situation of women and lure their victims by promising them large earnings in the West. Accepting such offers could support not only themselves, but also their family. Traffickers approach women by advertising in newspapers for dancers, waitresses, club hostesses etc. or by direct recruitment in discotheques and bars. They also lure women through the use of marriage bureaux. Even if a certain number of the trafficked women know they will work as prostitutes, they do not know that they will often be kept in slaves like conditions and unable to escape from their exploiters.

After the women are transported to the country of destination, there are several ways in which they are forced to enter and/or to continue with prostitution. Often they are obliged to repay heavy debts consisting of the costs of the documentation and transport, or their passports and money are taken away, or they are led into drug addiction by their exploiters. Frequently they are threatened with violence and beaten up. In some cases women have been found sequestered in brothels. Traffickers also threaten to inform the family of the women that they are working abroad as prostitutes. These women also feel trapped because of their situation as an illegal migrant. Finally, the influence over the victims is even stronger when the criminal organisations control the whole chain from recruitment, through transportation to the concrete sexual exploitation.

#### MAIN POLICY PRINCIPLES

Priority for any policy in this field should be the attention to the help and support to the victims of this serious and degrading violation of human rights<sup>5</sup>. There is a broad consensus that this fight cannot be tackled effectively without a multidisciplinary and co-ordinated approach involving all concerned players – NGOs and social authorities, judicial, law enforcement and migration authorities – and which involves both national and international co-operation. Furthermore it is necessary to address the phenomenon throughout the trafficking chain (recruiters, transporters, exploiters, other intermediaries and clients). Adequate prevention measures and repressive measures, as well as measures to support the victims and to re-establish their human dignity and integrity also need to be developed.

With these core elements in mind, the Commission's 1996 Communication identified a number of interdisciplinary and sectoral proposals<sup>6</sup> as well as the need to develop co-operation with third countries. These recommendations pointed to the prime and continuing responsibility of Member States since many issues either need to be or are

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<sup>5</sup> This approach is fully in line with the work at UN level supported by the EU and its Member States (follow-up to and implementation of the Beijing Declaration and Platform for Action).

<sup>6</sup> In the fields of migration, judicial co-operation, police co-operation, social and employment.



best tackled at national level. However, the transborder nature of the issues also require action at European level, both in the Community context and in the third pillar on Justice and Home Affairs.

This second Communication has also to be seen in the context of the broader fight engaged by the EU against other serious forms of transborder organised crimes as developed in the Action Plan endorsed by the Heads of State and government at the Amsterdam Summit of June 1997. With the Amsterdam Treaty coming into force, the Commission, while respecting the principle of subsidiarity, will be better placed to develop a full "cross-pillar" approach in the fight against trafficking in women. As stressed in its Communication of 14 July 1998 on creating an area of freedom, security and justice, the Commission is fully committed to exercise its new rights of initiative in a spirit of active interinstitutional co-operation.

## **PART I : ACHIEVEMENTS AND FURTHER INITIATIVES ON INTERDISCIPLINARY ISSUES**

### **I.1. : COOPERATION AND COORDINATION**

#### **I.1.a : Within the EU and between Member States**

The EU and the Member States, in the context of both the Joint Action of February 1997<sup>7</sup> and of the Ministerial Declaration of The Hague of 3 April 1997<sup>8</sup>, have endorsed the approach, suggested by the Commission in its Communication of November 1996, to encourage co-ordination and co-operation within and between the Member States:

- The Joint Action of February 1997 states in particular that each Member State shall ensure that the activities of the authorities responsible for this fight are properly co-ordinated, allowing for the possibility of a multi-disciplinary approach (Title II – H)
- The Ministerial Declaration of The Hague contains recommendations promoting multidisciplinary co-operation between the EU Member States (II-1) and mentions the possibility of appointing national rapporteurs (III-1-4) reporting to governments on the effectiveness of the national policies preventing and combating trafficking in women, as well as on the co-operation of national rapporteurs on a regular basis.

Although Member States are not committed to report formally on how they have implemented their obligations under the Joint Action until the end of 1999, certain Member States (such as Austria and Italy) have already introduced new legislation that implements the above mentioned elements. They also associate NGOs in the efforts of the various authorities as stated in Title II-I of the Joint Action. The Commission encourages Member States that do not yet have co-ordination bodies on trafficking to establish them and to associate NGOs in these co-operation mechanisms. The

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<sup>7</sup> See OJ of the EC n° L63/2 (97/154/JHA).

<sup>8</sup> See annex 1 of the Commission's services working document SEC(1998)2160.

Commission will also reinforce its own internal co-ordination mechanisms in order to assure a more integrated approach<sup>9</sup>.

### **I.1.b : With international or regional organisations and other third country partners**

Many international organisations and other bodies have been working on the issue of combating all forms of violence towards women or more specifically in the field of fight against trafficking.

- As regards the UN, several important initiatives have been taken<sup>10</sup>. More specifically, in the context of the work of the UN Commission on Crime Prevention and Criminal Justice, work has started on a Protocol on trafficking in human beings to be drawn up in parallel to the international Convention against Organised Transnational Crime.
- The G8 Heads of State and government agreed at the Birmingham Summit on 15-17 May 1998 to develop principles and an action plan to combat trafficking in women and children.
- The Council of Europe's Heads of States and governments expressed at their summit in October 1997 their determination to combat violence against women and all forms of sexual exploitation of women. Since 1997 a multisectoral group of specialists<sup>11</sup> has been working on possible initiatives in the field of trafficking<sup>12</sup>.
- The International organisation for migrants (IOM) has also been active. Several regional surveys on trafficking in women have been conducted, as well as research on statistical information (February 1998). A pilot project has also been launched on a rapid information system (October 1998). An information campaign has been carried out in the Ukraine in March to June 1998 (see below).
- ICPO-Interpol's activities in the fight against trafficking in women include the gathering and exchange of information related to traffickers, transnational researches and studies on trends, modus operandi and identification of countries involved in

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<sup>9</sup> The Commission appointed in 1996 the Task Force Justice and Home Affairs to act as its co-ordinating point for actions in the field of fighting trafficking in women.

<sup>10</sup> Such as the work of the Women's Status Commission; the reports of the special "rapporteurs" of the Human Rights Commission and the conclusions of the 1997 and 1998 session of the Economic and Social Committee, that call for the promotion of a gender mainstreaming policy and for legal frameworks as well as appropriate law enforcement and judicial mechanisms to help women who are victims of violence and of violations of their human rights in general, including trafficking. The General Assembly of the United Nations also promotes these issues in particular by means of a yearly resolution.

<sup>11</sup> Chaired by a representative of the Steering Committee for equality between women and men

<sup>12</sup> This multisectoral group is considering among other things the possibility of a new Convention on Trafficking. Furthermore, the Parliamentary Assembly adopted a report in March 1997. Recently, in June 1998, the Council of Europe also conducted an international seminar devoted to the role of NGOs in the fight against trafficking in human beings.

trafficking networks, as well as updating of legislation and the holding of specialised seminars<sup>13</sup>. Furthermore, ICPO-Interpol is involved in international investigations.

- The Organisation for security and co-operation in Europe (OSCE) has also launched an initiative in this field<sup>14</sup>. It stated that trafficking in women and girls goes beyond the borders of the OSCE community and that the trafficking in women and girls is clearly related to the global phenomenon of organised crime.

The Commission and the EU Member States have participated actively in the work of the various working groups and committees of these international and regional organisations, in order to develop complementary policies based on the exchange of information and experiences relating to activities under way and on research projects. As regards the IOM, the Commission has supported two projects under the STOP programme (see below point I.2). Steps have also been taken to start co-operation through a pilot-project with the UN Commission on Crime Prevention and Criminal Justice. As regards co-operation with the Council of Europe, the joint project "Octopus II", due to start in January 1999, aims at transposing and implementing the "acquis" of the Union in the field of fight against corruption and organised crime in the ten candidate countries of Central and Eastern Europe<sup>15</sup>. Concerning the work of ICPO-Interpol, working relations have started between this organisation and Europol. (See also Part II.3 Police co-operation)

- Co-operation in the context of the Transatlantic dialogue

Under the umbrella of the New Transatlantic Agenda, a co-operation based on prevention campaigns has been established in the area of trafficking in women. It was decided that the EU would organise an information campaign in Poland (to be implemented by "La Strada" (NGO) with PHARE democracy funds) while the USA would conduct a campaign in the Ukraine with the support of IOM (see above)<sup>16</sup>. The information campaigns started in April 1998 and ended formally in June 1998. However activities went in practice on until September 1998. Given the success of

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<sup>13</sup> On 20 and 21 October 1998, Interpol organised an International Conference on trafficking in women that took place in Vienna.

<sup>14</sup> In its Stockholm Declaration, the OSCE Parliamentary Assembly (Stockholm, 9 July 1996) expressed its concern about the deplorable practice of trafficking in women and girls. Furthermore at the occasion of the Fourth OSCE Implementation Meeting on Human Dimension Issues (Warsaw, 26 October – 6 November 1998), several participating states and NGOs touched again upon the issue of trafficking and violence against women.

<sup>15</sup> From the PHARE horizontal programme on Justice and Home Affairs, amount : 1.5 Mecus + from the Council of Europe, amount : 0.9 Mecu. Albania, Croatia, Moldova, Russia, FYROM and Ukraine will also be offered the opportunity to participate in this process

<sup>16</sup> The initiative was formally launched in November 1997 when the Luxembourg Presidency hosted a seminar with experts from the 15 Member States, the USA, Polish and Ukrainian authorities, the Commission as well as La Strada and IOM. This seminar defined the methods, the messages and the scope of the 2 parallel campaigns. Another meeting was held in Warsaw on 13 March 1998 in order to organise the participation of the Commission's delegation and of the EU Member States through their embassies and consulates.

these prevention campaigns it has been decided, to promote similar campaigns in other countries of origin and transit.<sup>17</sup>

**Member States and Commission action points:**

- To promote co-ordination and participate closely in the work in international and regional organisations.
- To develop joint projects between the Commission and international and regional organisations.

**EU and Commission action point :**

- To organise and support further prevention campaigns with the US in third countries of origin and/or transit

**I.2 : INFORMATION, DATA, RESEARCH WORK AND TRAINING**

Among the progress achieved so far an important element is the establishment by the Council of a multiannual financing programme, STOP,<sup>18</sup>). This programme establish "a new framework for training information, study and exchange actions"<sup>19</sup> as part of "a co-ordinated multidisciplinary approach to the problem"<sup>20</sup>. The programme, managed by the Commission with the support of a Committee comprising the Member States, is the only instrument of its type at European level. It has a 6,5 million ECU budget for an initial period of five years. Its objective is to promote training and co-operation between the various professional players responsible for combating trafficking on human beings and the sexual exploitation of children. Since 1996, several projects addressing the issue of trafficking in women have been supported<sup>21</sup>.

One of the main problems experienced in the field of trafficking in women is the lack of reliable statistics and data, making it difficult to assess the real dimension of the phenomenon and to prepare appropriate and targeted strategies to combat it. STOP has therefore supported an important IOM study that has been available to the public since May 1998<sup>22</sup>. This study analyses in particular the reasons why present statistics and data are so poor. Reasons for this are for example: the fact that it is a concealed phenomenon,

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<sup>17</sup> A meeting was organised by the US in L'viv (Ukraine) so as to assess the preliminary results of these two campaigns (see also Part III.1 CEEC AND THE NIS).

<sup>18</sup> Joint Action 96/700/JHA of 29 November 1996

<sup>19</sup> Joint Action, 5<sup>th</sup> recital

<sup>20</sup> Joint action, 4<sup>th</sup> recital

<sup>21</sup> These projects have contributed to the exchange and transfer of expertise and of know-how, to cross-fertilisation between different categories of professionals as well as to the setting up of networks on a European scale, since the European dimension of the projects is an important condition for access to STOP finance. For further details on the STOP programme, see Annex 2 of related Commission's services working document SEC(1998)2160.

<sup>22</sup> IOM final report on analysis of data and statistical resources available in the EU Member States in trafficking in humans, particularly in women and children for purposes of sexual exploitation.

no systematic collection, in general no clear criminalisation of trafficking in women, concepts and definitions of trafficking in women measured by different standards at national level, basic lack of communication and exchange of information between institutions at national level.

Information, , is crucial both in the context of prevention and assistance to victims. As prevention campaigns take place in countries of origin and transit, this aspect is examined further in PART III (co-operation with third countries). Victims of trafficking must have access to information on ways of seeking assistance. This can be provided through social and health departments, as well as through NGOs. The STOP programme can provide support up to a certain point. However, as the role of NGOs is crucial in relation to victims, the Commission considers that the main support in this area, should be provided principally through the existing DAPHNE Initiative that is specially intended for NGOs' activities. In this context, the Commission tabled a proposal on 20 May 1998<sup>23</sup> for a formal Council Decision on a medium-term Community action programme on measures providing a Community wide support to Member States action relating to violence against children, young persons and women (the DAPHNE Programme) (2000-2004). Its main objectives are to assist the creation and development of networks and to support innovative projects from NGOs. Trafficking in women is an important theme covered by DAPHNE. One of the areas covered is information to be provided by NGOs to victims on how they can protect their rights and obtain support from NGOs.

Both the STOP Programme and the DAPHNE Initiative can also support research projects in various fields of trafficking. So far, only a few studies have touched upon the issue of prevention and more generally on the roots of the phenomenon. More attention should therefore be paid to this aspect in future, including activities focusing on the demand side (clients and potential clients) such as awareness-raising and sensibilisation of clients and potential clients, and information campaigns on the human rights of women, on mutual respect and on equality between women and men, targeting young people.

Research work on appropriate techniques to combat illegal contents should also be encouraged in the field of new information technologies such as the Internet as these technologies can also be used for illegal purposes by traffickers<sup>24</sup>.

**NGOs' action point:**

- After adoption of the DAPHNE programme, NGOs should make extensive use of this tool in order to promote information and information networks to victims, and to promote best practices and training.

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<sup>23</sup> COM(1998)335 final

<sup>24</sup> The EU has adopted a full strategy to develop self-regulation on the Internet and to combat illegal content, see in particular the Council recommendation of 24 September 098/561/EC and the Commission's proposal for an Action Plan for a safer use of Internet.

### **Member State and Commission action points:**

- The Commission will, through its information policy targeted at women, raise awareness on the existence of trafficking in women and increase information on all Commission actions aimed at combating these practices.
- The Commission will, with the agreement of the Member States, refocus the existing guidelines of the STOP programme on information to victims in ways of seeking assistance; on more targeted research work including studies on the profile of the prostitutes' clients and on the various intermediaries in the trafficking chain, to help define more operational type of projects, in particular on information exchange systems, as well as to support more targeted training co-operation.
- The Commission will promote through the STOP programme some researches in order to examine the possible link between the practice of child sex tourism and the development of trafficking in very young women.

## **PART II : SPECIFIC SECTORS OF INTEREST**

### **II.1 : MIGRATION AND RELATED ISSUES**

Expertise gathered so far shows that migration related issues (such as visa, temporary permit of stay, controls on entry, stay on the territory of the Member States) are of great importance in combatting trafficking in human beings. Training in particular of civil servants dealing with migration such as those at Embassies and Consulates and those in charge of the issuing of visas is crucial. It could cover aspects such as communication methods with would-be applicants, to make them aware of the risks and realities, as well as the detection of false or forged documents and increased awareness of possible tactics and networks of traffickers<sup>25</sup>.

#### **EU Member States action point:**

- To launch relevant training projects to prevent and combat trafficking in women in the area of migration and detection of false or forged documents through the relevant Title VI programmes (ODYSSEUS and STOP).

Although the developments in the migration and judicial fields are presented separately for sake of clarity, there are strong interrelations between these two sectors with regard in particular to the protection of victims.

This link is particularly strong between the need of adequate migration policy towards victims of trafficking and the question of improved ability for courts to sentence the traffickers. Very often, victims are in an illegal situation in the host country and fear of repatriation prevents them from co-operating with authorities against traffickers. Any significant improvement in the prosecution of traffickers must lead authorities to allow

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<sup>25</sup> Training in communication methods should however avoid to stigmatise the entire group of immigrant women.

victims not to be automatically expelled from the host country and to provide them with judicial assistance and appropriate witness protection.

The Joint action of February 1997 stipulates that each Member State shall ensure that victims are available where required by the Member State's criminal Justice system to give evidence in any criminal actions, which may entail provisional residence status in appropriate cases. This provision does not make it an obligation for Member States to deliver a temporary permit of stay. Some Member States (such as Belgium, Italy, the Netherlands) have indeed provided a legal or administrative framework for such a possibility. The Commission is convinced that more must be done on these issues in all Member States. In its 1996 communication, the Commission supported the principle of delivering a temporary permit of stay in the case victims are prepared to act as witnesses in judicial proceedings. It wishes now to go one step further and is prepared to present in 1999 a formal proposal for legislative action in this field, taking into account the experiences drawn from recent national laws so as to avoid potential abuses from future mechanisms.

Furthermore the Commission will address the broader issue of judicial assistance to victims and of witness protection schemes. In the context of its future 1999 communication on assistance to victims, include suggestions for the specific situation of victims of trafficking as it is crucial to gain the support and trust of the victims to make testimony in front of the courts against their persecutors. This could imply appropriate protection both for the victims and their families enabling them e.g. to defend their rights before the courts, to be informed of the progress of enquiries or to be helped to return to their country of origin.

**Commission action points :**

- To make, in 1999, a proposal for legislative action as regards temporary permits of stay for victims who are ready to act as witnesses.
- To produce in 1999 a communication on assistance to victims including victims of trafficking.

**II.2 : PENAL LEGISLATION AND JUDICIAL CO-OPERATION**

The main progress in this area are the provisions contained in the Joint Action of February 1997 since the major objective of this Joint Action is to improve the Member States' penal provisions and their judicial co-operation in the context of combating trafficking in human beings.

Concerning measures to be taken at national level, the main elements contained in this Joint Action are as follows :

- Criminalisation of behaviour such as the sexual exploitation of a person for gain by using coercion or deceit or abuse of authority or other pressure which leave no real choice to that person.
- Trafficking in persons for gain and with a view to sexual exploitation
- Administrative or criminal liability of legal persons.

- Punishment of these offences by effective, proportional and dissuasive criminal penalties<sup>26</sup>.

As regards measures to improve judicial co-operation:

- Member States shall grant each other the widest possible judicial co-operation in the investigations and judicial processes relating to sexual exploitation and trafficking offences as well as grant each other assistance in the exchange of related information.
- Review of reservations to Article 5 of the 1959 European Convention on Mutual Assistance concerning possible requirement of dual criminality, seriousness of offence, etc for repressive measures like e.g. search and seizure.
- Letters rogatory to be dealt with as quickly as possible and the requesting Member State to be kept informed of progress
- Direct transmission of requests for assistance between locally competent authorities where appropriate.

Member States are to review their legislations and where required to amend them by the end of 1999. A political commitment was reached however at the informal Justice and Home Affairs Council of October 1998 to accelerate this undertaking.

One of the major problems appears to be that in most Member States legislation does not specifically address the questions of sexual exploitation of women trafficked from abroad<sup>27</sup>.

The Commission believes however that appropriate follow-up actions in the field of penal legislation and judicial co-operation could be presented after the assessment to be made by the Council of the Member States' implementation of their obligations under the February 1997 Joint Action.

Furthermore the Commission is convinced that it is important for Member States actively to encourage the drafting of the UN Protocol on trafficking in human beings, so as to allow co-operation to take place at worldwide level<sup>28</sup>.

**Member States action point:**

- To co-ordinate properly between themselves their positions as regards the future UN Protocol on trafficking in human beings, with the aim of approximating provisions in this Protocol or at least of ensuring

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<sup>26</sup> To include custodial penalties giving rise to extradition in the case of natural persons, confiscation of the instruments and proceeds of the offences and possibly closure of the establishments used or intended for use in the commission of the offences.

<sup>27</sup> Under the STOP Programme a study by the University of Athens in 1998 of the legislative and judicial practices in the Member States demonstrated that there are important discrepancies in the legal situations among the Member States.

<sup>28</sup> See conclusions of the Council of 5 October 1998 requiring the member States to adopt common positions as regards both the UN Convention on combating transborder organised crime and related Protocols.



compatibility with EU instruments, in particular with the Joint Action of February 1997.

### II.3 : POLICE COOPERATION

In its first Communication, the Commission pointed to the need to improve international co-operation between law enforcement agencies so as to act against those organised criminal networks that have well-established transborder connections. However national law-enforcement agencies, in order to operate effectively, must also have appropriate investigative powers<sup>29</sup>. Since November 1996, several Member States have already set up units that specialise in the fight against trafficking in women.

In the field of international co-operation, the mandate of the Europol Drug Unit (EDU) was extended in September 1996 to include traffic in human beings and it was asked also to establish a directory of specialised competences (a list of contact points for law enforcement purposes). The Europol Drug Unit has started to exchange through the Member States' liaison Officers, based in The Hague, information on trafficking in human beings<sup>30</sup>. In its work programme for 1999 it has clearly indicated its intention to attach a high priority to this matter, proposing in particular the following initiatives :

- To undertake an analysis of the main trends of trafficking in human beings and the selection of objectives to start and support common enquiries to fight against the main criminal organisations in this field
- To launch a project related to the situation in the applicant States involving all those concerned (NGOs, social, judicial, law enforcement and migrant authorities) with the principal aim of exchanging information and intelligence
- To update its manual of good practices, police techniques and methods (linked with the manual of Interpol)
- To run a training programme on trafficking in human beings
- To report on the situation within the EU as a basis for future EU action in this field of criminality.

#### **Member States, Europol and Commission action points:**

- Member States should consider the usefulness of creating specialised units or co-ordination units in the fight against trafficking in human beings.
- Europol should be encouraged to deepen its working relations with Interpol on this issue.

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<sup>29</sup> The Joint Action of February 1997 specifically requires Member States to provide adequate investigative powers and techniques to enable effective investigation and prosecution. In its first Communication, the Commission also suggested to Member States that they should consider the establishment of specialised units of law-enforcement authorities, and/or single national contact points.

<sup>30</sup> The Europol Drugs Unit also hosted in March and October 1998 two expert meetings on trafficking in human beings in The Hague with participants from the Member States and from non-governmental organisations. During the October meeting representatives of the applicant States were present.

- The Commission will promote, through the STOP programme and in agreement with the Member States, the training and exchange of expertise for law enforcement personnel dealing with the fight against trafficking, in particular those specialised in trafficking in women, while co-ordinating with Europol in order to develop complementary approaches on training issues.

#### II.4 : SOCIAL ASSISTANCE TO VICTIMS AND EMPLOYMENT ISSUES

Specific social assistance to victims of trafficking and stricter administrative controls of working conditions in certain activities are important elements in the fight against trafficking. However, in order to change attitudes of society towards sexual exploitation of women, long term preventive measures are crucial. The role of Member States is essential. However, the Community can also provide European specialised social and education programmes, and global support through its existing policies and financial tools<sup>31</sup> to combat racism and promote equality between women and men, the mutual respect between the sexes and the respect of human rights and dignity.

##### II.4.a : Social assistance to victims

Women victims of trafficking for the purpose of sexual exploitation are in general being recruited in social circles which are vulnerable both from material and psychological viewpoints. They have, in all cases, suffered deep physical and/or psychological trauma during the time of their exploitation and some are still suffering health problems. It is therefore of the utmost importance to help these victims, once they are in contact with NGOs and social services, to reconstruct both their health and their personal identity through the provision of the appropriate assistance.

Such social assistance, as emphasised in particular by The Hague Ministerial Declaration, must not only consist in providing safe reception and rehabilitation centres to protect the victims against their exploiters, but also confidential medical, social and psychological care and legal assistance. Further support is also needed in terms of professional reintegration and training or repatriation to their home country.

The Commission believes, in line with the views of the European Parliament<sup>32</sup>, that there is a strong need for social assistance to be provided to the victims in particular through NGOs<sup>33</sup>. These organisations have demonstrated their ability to devise innovative ways of reaching and helping victims of sexual exploitation. They have also started to structure themselves and to cooperate at European level. However public financial support is often insufficient both at national and regional level. At European level, various Community programmes contribute to social assistance for victims of trafficking, even if they were

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<sup>31</sup> Medium term Community action programme on equal opportunities for women and men (1996-2000).

<sup>32</sup> Colombo Svevo Report of January 1996

<sup>33</sup> It should be noted that most NGOs are specialised not only in the care of trafficked women but deal also with help and information on various issues relating to prostitution (see non-exhaustive list of NGOs by Member States in Annex 3 of the Commission services working document SEC(1998)2160).

not primarily designed to focus on these victims and can not be considered, in line with the principle of subsidiarity, as a substitute to Member State action.

In particular, the INTEGRA Programme that seeks to promote the integration into employment of groups most at risk from the labour market, has supported projects through partnerships between public authorities, NGOs, SMEs, social partners and associations.

The programme "Prevention of AIDS and certain communicable diseases...", and the Programme "Health Promotion ... in the field of public-health", have also been identified as useful programmes in relation to the support of victims of trafficking.

The Commission organised in February 1998 a seminar under the LEONARDO DA VINCI vocational training programme. The objective of the seminar (entitled "means of promoting reintegration of women who are victims of the traffic in human beings") was to identify the needs in training for the victims and the persons in charge of their social guidance and professional training as well as the setting up of networks. This seminar helped interested actors to make specific project proposals. These proposals are presently being selected.

Furthermore, the Commission under the DAPHNE Initiative (launched in May 1997; see also above PART I/1.2) has supported a number of innovative transnational projects in the field of rehabilitation and reinsertion of victims. For instance, it has encouraged the development of WAVE 1998 (Women Against Violence in Europe) and in particular the elaboration of a data bank available on CD-ROM and on Internet. This database provides information on rehabilitation centres for victims of violence including trafficking in the European Union and in a number of applicant States<sup>34</sup>.

**NGOs action point :**

- To develop further co-operation, with the support of DAPHNE, between themselves and European networking in general.

**Member States action points :**

- To support reception and rehabilitation centres if such centres do not already exist
- To provide further support for local and national programmes for training social and health personnel.

**Commission action points :**

- to advertise among the concerned target groups the possibilities under the INTEGRA Programme, the LEONARDO DA VINCI Programme and in the Community health programmes.
- to encourage, as proposed in the future multiannual DAPHNE Programme (2000-2004), the extension of the support to NGOs so as to allow them also

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<sup>34</sup> See also annex 1 of the Commission's services working document SEC(1998)2160.

to diversify their activities e.g. in the area of legal counselling of the victims.

#### **II.4.b : Employment and related issues**

The Commission identified in its first Communication the need for Member States to pay attention to the working conditions of au-pair girls, bar and dancing establishments' employees as well as employees in sex shows' and massage parlours. It also recommended Member States to ensure proper co-ordination between social and health inspectorates and law enforcement services with the aim of identifying and helping victims. As far as the Commission is aware, no follow-up has occurred by the Member States to these recommendations although they have certain means to exert controls on employers. Furthermore the Commission would consider it useful for Member States to review their existing legal provisions and administrative controls and conditions attached to the functioning of marriage bureaux and escort activities, as such services are used in certain cases to cover the activities of traffickers.

##### **Member States action points :**

- To ensure proper co-ordination between social and health inspectorates and the law-enforcement services
- To review existing legal provisions and administrative controls and conditions attached to the activities listed above

##### **Commission action point :**

- To make a comparative study in 1999 on existing legal provisions and practices relating to the above mentioned activities.

### **PART III : COOPERATION WITH THIRD COUNTRIES**

The real, long-term impact of the various initiatives already undertaken at EU and national and regional level, although indispensable, will be greatly reduced if they are not supplemented by far-reaching actions in the countries of origin and of transit. This requires the public authorities of these countries to give a higher priority to this issue. The main factors driving women to listen to false promises by recruiters and to take the risk of being trafficked, are linked to poverty, unemployment and the lack of opportunity within their country of origin. The aggravation of the economic situation in these countries has had a direct effect on the flow of trafficking in women<sup>35</sup>. Lack of education and sexual discrimination are also important elements at the root of the trafficking phenomenon. The key objectives for the Community's development co-operation include the fight against poverty, the promotion of human rights, gender mainstreaming and democracy, and sustainable development. This approach could also be complemented by promoting certain pilot-projects (such as information campaigns) in the field of trafficking<sup>36</sup>.

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<sup>35</sup> As well, of course, as on the general flow of smuggling of aliens seeking work abroad.

<sup>36</sup> It would be useful to associate in the information campaigns the Commission's delegations and the EU Member States embassies and consulates.

As indicated in the general introduction, recent trends in trafficking in women show that the traditional flow from third world regions has continued, while a strong increase of women, trafficked into the EU and originating from Central and Eastern applicant States and from the New Independent States, has taken place in recent years.

Instruments already used in co-operation programmes with government authorities or in supporting local NGOs and civil society (particularly those relating to human rights, gender policies and access to justice) should be further developed with all important countries of origin. However, special attention should be given to support co-operation with the applicant States as part of the accession process to the European Union.

### III.1 : CENTRAL AND EASTERN EUROPE AND THE NIS

In considering co-operation between the European Union and the NIS and applicant states of central and eastern Europe in the fight against trafficking in women, three types of action can be taken into account:

- First, actions which support the improvement of administrative structures in key sectors (e.g. law enforcement agencies, judicial bodies). Without such structures, it is difficult to investigate and prosecute criminal organisations involved in organised crime including trafficking in women.

Since the first Communication, much has been done in the pre-accession strategy in this field. In particular, the "Accession Partnerships" of March 1998 attach great importance to the development of administrative and judicial capacities of the applicant CEECs<sup>37</sup> and identify priorities each country needs to address, including the fight against organised crime.

Justice and Home Affairs is a priority area for all applicant CEECs in the framework of the reinforcement of administrative and judicial capacities. Twinning projects between Member States' and their administrations will start in 1999. A large number of projects selected in this field will contribute to the efficiency of the fight against organised crime and trafficking in women<sup>38</sup>. Furthermore, in 1999, the Commission will support training of police forces from applicant CEECs through the Association of European Police Colleges (AEPC). One training module is specifically devoted to the fight against trafficking in human beings.

- The Commission is currently considering the possibility under the TACIS programme of helping the NIS to improve their administrative and judicial capacities.
- Secondly, actions providing support for the creation and development of NGOs specialised in the fight against trafficking in human beings. These complement the

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<sup>37</sup> From 1998, about 30 % of PHARE assistance will go to institution building activities.

<sup>38</sup> 9 projects are devoted to the reinforcement of judicial structures, 8 projects to border controls and immigration, 4 projects to the training of law enforcement agencies and 1 project is devoted to the fight against organised crime.

role of public authorities through activities on prevention of trafficking<sup>39</sup> and assistance.

PHARE and TACIS Democracy Programmes have also financed projects on "Prevention of trafficking in women". They have focused on the development of prevention campaigns, provision of social, medical and psychological support to victims, development of comprehensive programmes to rehabilitate victims of trafficking into society and/or into their country of origin through job training and legal assistance, development of human rights education. In particular, the "La Strada" NGO has developed activities in Poland and the Czech Republic, which are now being extended to other countries including Ukraine and Bulgaria. One of its most successful actions was an information campaign in Poland, carried out in parallel to an IOM campaign in Ukraine<sup>40</sup>. These campaigns had good results in raising awareness and also stimulated the creation of new networks and partnerships. These have had trigger effects such as proposals for new legislation and the formation of permanent structures in national administrations to work against trafficking in women.

- To help local NGOs to build up partnerships with NGOs in the EU on the fight against violence, the Commission has proposed to open up the future DAPHNE programme to applicant CEECs.

As regards the NIS, associations have faced difficulties in their activities in the fight against trafficking (both in terms of resources and official support).

- Thirdly, actions providing support to projects involving co-operation to bring together people working on this matter from EU Member States and the applicant CEECs (e.g. judges, public prosecutors, police, civil servants, public services concerned with immigration and border controls). To promote this co-operation, the Commission will encourage the opening of the STOP programme to applicant states from the year 2000.

**Commission action points :**

- To encourage the opening of the STOP programme to the applicant countries of central and eastern Europe;
- To make continued use of the PHARE programme in order to improve, in line with the Union's "acquis", the legal framework, structural capacity and human resources in the field of Justice and Home Affairs to tackle more efficiently organised crime in general and trafficking in human beings in particular;

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<sup>39</sup> Information on trafficking risks provided through schools and universities is an important element of prevention policy in source countries. It is equally important to provide adequate training and methods to pedagogical circles. The SOCRATES Programme (now also opened to applicant States) could provide support to appropriate pedagogical methods and dissemination of good practice.

<sup>40</sup> These twin "prevention" campaigns were organised from March to June 1998 in the framework of the New Transatlantic Agenda. The United States provided the funds for the campaign in the Ukraine, while the European Union provided, via PHARE Democracy, the funds for the campaign in Poland. Further prevention campaigns are to be launched next year in other central and eastern European countries.

- To continue to support concrete projects in the fight against trafficking in women through the PHARE Democracy programme;
- To promote awareness raising and education among potential victims under the Socrates and Youth for Europe programmes.

**EU, Council and Commission action points :**

- To adopt the DAPHNE programme including provisions to open it to applicant CEECs.
- To continue to use the expert working groups which associate the EU and applicant CEECs or comprise representatives of applicant CEECs (e.g. Working Group for the Implementation of the Pre-accession Pact on Organised Crime and the Expert Group on Drugs and Organised Crime) to encourage co-operation on the fight against trafficking in human beings including trafficking in women<sup>41</sup>.
- To promote, in the context of the dialogue which is beginning on organised crime issues with the NIS, and in particular with Russia and Ukraine, exchange of information on trafficking in women.

### III.2 : COOPERATION WITH DEVELOPING COUNTRIES

Existing Community co-operation programmes with developing countries address root causes of trafficking such as poverty and unemployment.

As regards co-operation with African, Caribbean and Pacific Countries (ACP), more importance has been given, in the framework of the Lomé IV Convention, to the defence of women's rights and to favouring specific actions that help to associate women with the main activities in the field of development<sup>42</sup>. This is also reflected in the Commission's mandate given by the Council in June 1998 for the negotiations with the ACP for the renewal of the Lomé IV Convention.

So far, the European Development Fund has however not been sufficiently mobilised in favour of specific projects such as the improvement of legislation, judicial and police training against trafficking in women, and prevention and awareness-raising actions. The Commission wishes also to reiterate its suggestion of promoting dialogue on these issues with ACP countries by putting in place an ACP rapporteur who could initiate such a dialogue at the next Joint Assembly.

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<sup>41</sup> A specific meeting of the expert group on drugs and organised crime (associating all EU Member States, the applicant States and Norway) took place in Brussels on 13 November 1998 in order to assess practical steps to develop judicial and law enforcement co-operation in this field including possible co-operation, at a later stage, with Europol.

<sup>42</sup> See in particular the Commission's pledge for the reinforcement of civil society and the participation of women in the democratisation and development process, in its Communication on the challenge of partnership between the EU and the ACP ; Com (98) 146 final. A specific reference is made to providing women with information on their rights as well as to access to the judicial bodies and to social services.

As regards co-operation with Asian, Latin American and Mediterranean countries (ALA/MED) a similar approach has been followed to that for the ACP countries, namely to promote the defence of women's rights and to favour specific development action that associates women. The Community funded programmes have focused in particular on poor and disadvantaged communities in urban areas, where women are most likely to be drawn into sexual exploitation and to fall into the hands of traffickers. No specific projects have however been financed in the area of trafficking in women as such.

**Community and Member States action point :**

- To support research and pilot projects to be devised in co-operation with NGOs, EU Member states, international organisations in the area of training, prevention and awareness-raising to take place in ACP/ALA/MED countries.

**Commission action points :**

- To mobilise the existing financial co-operation instruments in favour of specific pilot projects in the field of fight against trafficking in women under the appropriate budget lines<sup>43</sup>. These projects should encourage the partners to use co-operation funding.

**CONCLUSIONS**

In its first Communication of November 1996 the Commission proposed a multidisciplinary and "trans-pillar" approach so as to mobilise all the instruments available to the EU under the Treaty (both in the Community context and in the third pillar on Justice and Home Affairs). In this communication it is suggested to go one step further by developing strategies and measures aimed to cover the various stages of the organised crime chain and to involve all the actors in the fight against trafficking in women.

The Commission is conscious that implementing this ambitious range of actions represents a real challenge for protecting society and women's human rights against traffickers.

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<sup>43</sup> Budget lines "Democratisation", Women and development", "Co-financing of NGOs", "Decentralized co-operation", "Fight against AIDS", "Fight against drugs", "Demography".



**COM(96) 567 final**

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL  
AND THE EUROPEAN PARLIAMENT**

**ON TRAFFICKING IN WOMEN FOR THE PURPOSE OF  
SEXUAL EXPLOITATION**

PART I: GENERAL FRAMEWORK

CONTEXT

SCOPE

BACKGROUND

PART II: DEVELOPMENT OF AN INTEGRATED MULTIDISCIPLINARY POLICY

II. 1: INTERDISCIPLINARY PROPOSALS

II. 1. a: The "STOP" Programme against trafficking in human beings

II. 1. b: Need for improved data and research

II. 1. c: Cooperation and Coordination

II. 1. d: Information campaigns

II. 1. e: Training

II. 2: MIGRATION

II. 2. a: Migration Training

II. 2. b: Temporary Permit of Stay

II. 3: JUDICIAL COOPERATION

II. 3. a: Existing International Instruments

II. 3. b: National Legislation

II. 3. c: New European Union Legal Instrument

II. 3. d: Sanctions

II. 4: POLICE COOPERATION

II. 4 a: Cooperation and Communication

II. 4. b: Law Enforcement Training

II. 4. c: Third Countries

II. 5: SOCIAL AND EMPLOYMENT DIMENSION

II. 5. a: Information

II. 5. b: Social Programmes

II. 5. c: Reception and Rehabilitation Centres

II. 5. d: Employment Conditions

II. 5. e: Training in the Social Field

PART III: COOPERATION WITH THIRD COUNTRIES

III. 1: CENTRAL AND EASTERN EUROPE AND THE NIS

III. 2: AFRICA, CARIBBEAN AND PACIFIC COUNTRIES (ACP)

III. 3: ALA/MED COUNTRIES

PART IV: CONCLUSION

## PART I: GENERAL FRAMEWORK

### CONTEXT

Trafficking in women for the purpose of sexual exploitation is an increasing type of international organised crime generating high profits with relatively low forms of risk for traffickers. Thousands of women are being trafficked from developing countries and Central and Eastern Europe to Western Europe and brought into conditions in which their basic human rights are violated. Only a minority of cases are reported and convictions of traffickers are rare.

Public concern and international awareness have increased through the work of non-governmental organisations (NGOs), the United Nations and the Council of Europe. The Justice and Home Affairs (JHA) Council of the European Union agreed a set of recommendations in November 1993 to the Member States to counter trafficking<sup>1</sup>, and in addition to a number of resolutions, the European Parliament produced a unanimous report and resolution on trafficking in human beings in December 1995<sup>2</sup>. In a major conference in Vienna in June 1996, the European Commission took the initiative of bringing together for the first time, experts, NGOs, academics, law enforcement and immigration officials, and government and parliamentary representatives. The conference identified a number of specific areas for action, and adopted a set of recommendations, including development at EU level, of a comprehensive action plan for a structured approach.

The purpose of this Communication is to stimulate a broad policy debate, and to promote a coherent European approach to these issues. At the same time, whilst considering the actions currently under debate in the JHA framework, it seeks to identify concrete and rapidly achievable proposals. The Commission believes that such an approach should include measures to improve both international and European cooperation, whilst putting more effective measures at national level in place.

### SCOPE

Any initiative to combat this form of international organised crime must devote central attention to the devastating effect it has on the victims. The human rights of women include their right to have control over, and decide freely on matters relating to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence<sup>3</sup>. The Communication will thus be limited to the particularly serious abuse of human rights which is involved in trafficking for sexual purposes<sup>4</sup>.

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<sup>1</sup> Recommendations on Trade in Human Beings - Council Press Release 10550/93 of 29-30 November 1993, see Annex 2.

<sup>2</sup> Report on Trafficking in Human Beings of the Committee on Civil Liberties and Internal Affairs. Rapporteur Mrs Maria Paola Colombo Svevo, of 14 December 1995, A4-0326/95.

<sup>3</sup> United Nations Fourth World Conference on Women - Beijing 1995, see also Annex 2

<sup>4</sup> In the Commission Communication on Incorporating Equal Opportunities for Women and Men in all Community Policies and Activities" (COM (96) 67), the questions of violence against women and trafficking in persons were touched upon.

Although this Communication concentrates on **women**, trafficking of women raises questions which are also relevant to traffic in **children**. However, current concern about abuse and exploitation of children raises many other issues beside trafficking which must therefore be specifically addressed. The particular needs and situation of children require targeted analysis and responses, both socially and legislatively. The Commission is investigating the ways in which the European Institutions may further contribute to this fight after the Commission's first reactions in an "Aide-Memoire"<sup>5</sup> at the Informal Justice and Home Affairs Council on 27 September 1996. The Commission intends to follow the conclusion from the recent Stockholm World Congress against Commercial Sexual Exploitation of Children, that a coherent and coordinated approach is needed. All forthcoming Commission initiatives which have a bearing on prevention of abuse or sexual exploitation of children will be prepared in this broader perspective. A Communication including immediately realisable measures to combat child pornography on the Internet, and a Green Paper on the Protection of Minors and Human Dignity establishing a longer term action plan, were adopted by the Commission on 16 October.

The Communication defines **trafficking** as the transport of women from third countries into the European Union (including perhaps subsequent movements between Member States) for the purpose of sexual exploitation. A distinction must be made between legal and illegal entry. Some women enter legally, either because they come from countries whose nationals are not required to hold a visa in order to enter for a short period stay into the territory of a Member State, or are in possession of a short stay visa or even of a longer term work permit, for example as a "dancer". This may be a cover for prostitution.

Trafficking for the purpose of **sexual exploitation** covers women who have suffered intimidation and/or violence through the trafficking. Initial consent may not be relevant, as some enter the trafficking chain knowing they will work as prostitutes, but who are then deprived of their basic human rights, in conditions which are akin to slavery. The Communication does not however seek to address the question of women who are not put under duress by a third party to travel to work as prostitutes over borders, nor does it address the questions of black market labour in other sectors in the European Union.

## BACKGROUND<sup>6</sup>

### How many victims of trafficking are there?

There is no doubt that trafficking in women conducted by organised criminals is on the increase. Although accurate **figures** are not available, partly because of the illegal and clandestine activities involved, and partly because the problem has not been fully recognised at an official level in many countries, there are some national studies<sup>7</sup>. The IOM (International Organisation for Migration) estimates that some 500,000 women were trafficked in 1995, most of them illegally, to the countries of the EU, and research by the NGO International

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<sup>5</sup> available from the Task Force for Justice and Home Affairs of the Commission.

<sup>6</sup> information based largely on data gathered during the Conference held in Vienna and on IOM studies - see also Bibliography in Annex 3.

<sup>7</sup> for example at a national level, such as: "Traite des êtres humains - vers une politique de volonté commune", Centre pour l'égalité des chances et la lutte contre le racisme, March 1996 (Belgium).

Campaign to End Child Prostitution in Asian Tourism (EPCAT) recently observed clear trends involving large numbers of women and girls from Russia, Ukraine and Belarus being transported westwards<sup>8</sup>. Figures reported by national NGOs also suggest an increasing number of women originating in Central and Eastern Europe<sup>9</sup>.

### **What are the causes?**

IOM studies indicate that the **causes** of migration related to trafficking in women can be found, *inter alia*, in the lack of opportunity in the countries of origin, extreme poverty in many developing countries and marginalisation of women in the source countries. Poor or non-existent education is also of critical importance, and in areas where unemployment is high, women tend to be more severely affected than men. It also appears that demand for "exotic" prostitutes is growing, and women from countries which have a sex tourism industry are more likely to be trafficked abroad. Increasingly strong organised crime networks also act both to stimulate demand, and to lure potential victims into the trade.

### **Which countries are involved?**

It appears that trafficked women come from almost all over the world: more from some regions and countries than others. For example, Ghana, Nigeria and Morocco in Africa, Brazil and Colombia in Latin America, the Dominican Republic in the Caribbean, and the Philippines and Thailand in South East Asia appear to be particularly affected. IOM research also shows that there are well established links between certain source and host countries<sup>10</sup>. Furthermore, after the emergence of the New Independent States and the fall of the Berlin wall, it has been noted that a large number of Central and East European countries have become source and/or transit countries.

The flow is towards industrialised countries, and involves, to a greater or lesser extent, all EU Member States. The Commission is conscious that trafficking within and between countries in other regions of the world, where the EU has only an indirect way of influencing the situation, also exists.

### **How does trafficking occur?**

Law enforcement experience shows that, although there is small-scale traffic involving few individuals, there are, more importantly, large enterprises and international networks creating a sophisticated and well organised "industry"<sup>11</sup>, with political support and economic resources in countries of origin, transit and destination. Corruption of officials has also been reported. Routes and transport obviously depend on the geographical proximity of the source to the receiving country. Women entering the EU from Central and Eastern Europe tend to arrive

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<sup>8</sup> "Commercial Sexual Exploitation of Children in some Eastern European Countries" EPCAT, March 1996.

<sup>9</sup> Dutch Foundation against Trafficking in Women (STV) 1994 and 1995 reports.

<sup>10</sup> "Trafficking and Prostitution: The Growing Exploitation of Migrant Women from Central and Eastern Europe", May 1995.

<sup>11</sup> "Trafficking in women for purposes of sexual exploitation", Dr W Bruggeman, Europol Drugs Unit, conference paper for Vienna Conference.

by train or private car, whilst women from further away enter by plane.

### **Who are the women?**

The women are normally very young (most of them under 25 and many underage). An IOM study<sup>12</sup> suggests that a distinction should be made between the trafficking of women from Central and Eastern European countries and from developing countries. Women from developing countries tend to be older, and are more likely to be married and have children. Women from Central and Eastern Europe appear to be younger and better educated.

## **PART II: DEVELOPMENT OF AN INTEGRATED MULTIDISCIPLINARY POLICY**

The main conclusion from the European Commission Conference in Vienna in June 1996 was that trafficking cannot be tackled effectively without a multidisciplinary and coordinated approach which involves all concerned players - NGOs and social authorities, judicial, law enforcement and migration authorities - and which involves both national and international cooperation.

The recommendations from the Conference point to a lead responsibility for Member States, because many issues either need to be or can best be tackled at national level. However, the transfrontier nature of the issues also requires action at European Union level: firstly by initiating actions at European level or by complementing national actions; secondly through Community cooperation with third country partners. All the instruments available to the EU under the Treaty need to be mobilised, both in the Community context, and in the third pillar on justice and home affairs<sup>13</sup>.

The Commission attaches special importance to the work of NGOs and civil society in combating trafficking. NGOs have demonstrated their ability to devise innovative ways of reaching and helping victims of sexual exploitation. They have a vital role in sensitising governments and the public and in lobbying for legislative change.

In parallel with the Commission's follow-up to the Vienna Conference, the Member States are already taking steps to improve cooperation in the third pillar, and a number of initiatives are under negotiation at present. This Communication is intended to complement those actions in other fields. It is also the first internal step for the Commission to develop a coherent strategy in its actions - within its competence - to help victims.

In line with the key areas identified at the conference, the Communication makes the distinction between migration, judicial cooperation, law enforcement, social issues, and international issues. However, actions taken in these areas must also be seen in a broader

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<sup>12</sup> see footnote 10.

<sup>13</sup> Title VI of the Treaty on European Union (the so-called "third pillar") provides for the Member States to regard certain interior and justice issues (particularly immigration and asylum, police and judicial cooperation) as matters of common interest. The forms of cooperation provided for differ from the European Community's mechanisms in a number of respects, such as a general requirement for unanimous decision-making, and a limited right of initiative for the Commission.

perspective, and a number of recommendations are of a multidisciplinary nature because certain of the problems addressed are interrelated<sup>14</sup>. This paper first deals with the multidisciplinary issues, and then looks at specific fields. In each chapter, the Vienna Conference recommendations are recalled (in italics) and action points suggested (in bold). For each action point identified, the Commission suggests where responsibility for taking it forward lies<sup>15</sup>.

## II. 1 : INTERDISCIPLINARY PROPOSALS

### II. 1. a: The "STOP" Programme against trafficking in human beings

Among recent initiatives taken in the field of justice and home affairs, an incentive and exchange programme for persons responsible for combating trafficking in human beings and the sexual exploitation of children, is expected to be adopted soon. This will be known as the "STOP" Programme (Sexual Trafficking of Persons), and once in place (it is hoped before the end of 1996) the programme should be a useful instrument to fill the gaps identified in the field, particularly for data and research, dissemination of information between authorities, and training. It is expected that 6.5 MECU will be available for the next five years under this programme (0.5 for 1996 and 1.5 for 1997 onwards), depending on the appropriation which is voted annually by the Budgetary Authority.

#### **EU action point:**

Rapid adoption and implementation of the joint action on the above-mentioned programme.

### II. 1. b: Need for improved data and research

The lack of reliable data on all aspects of trafficking has so far hampered targeted action. Specialist research projects which complement the few existing studies are required, including social and economic research on the structural causes (poverty, inequality, social exclusion), as well as on clients.

In addition, the paucity of figures on victims and the scale of networks is particularly striking. There are weaknesses in data collection and methodology, in particular the problem of non-comparable definitions, and to date no regular reports to evaluate trends. This is true both at national, regional and international level. In order to plan precise, well-targeted preventive

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<sup>14</sup> For example, the proposal for a temporary permit of stay, which is dealt with under migration issues, has as its purpose the facilitation of judicial proceedings. Another example is the close link between improved information and strengthening of coordination. Furthermore, the difficulty of establishing a clear distinction between authorities and actions was seen during the conference debates and all experts were agreed that no single agency could deal with the issue on its own.

<sup>15</sup> either consideration by the Member States acting at national level, or for the European Community (first pillar i.e. Treaty of Rome) or the European Union (third pillar i.e. cooperation in the fields of justice and home affairs), or for direct action by the Commission.

programmes, a clearer picture of the relative importance of different source and transit countries is required (although organisations such as the IOM have done useful work on migration flows). Furthermore, exchange of knowledge of systems used by traffickers, including information on routes and use of false documents, is needed to improve efficiency of controls by migration authorities. Those with expertise in the field should be involved, such as European NGOs and NGOs in the source and transit countries (which need to be identified as part of the research). Of note is the practice of some Member States to commission national annual situation reports provided by NGOs.

A system to ensure regular provision of information will be needed to enable authorities to adapt policies on an ongoing basis. Certain aspects of research will need to be done by law enforcement authorities, particularly development of standardised and comparable figures, and the Commission hopes it will be possible for national law enforcement bodies and the international bodies (Europol and Interpol) to cooperate with civil research and specialised organisations such as the IOM, and avoid duplication of effort. However, although this may be a valuable long term objective, it does not seem to the Commission to be realistic at this stage to organise the production of a consolidated annual situation report covering all areas. Specific studies and reports will be of greater value to Member States better to identify effective actions, and also provide a firm basis for further follow-up action by the Commission in its areas of competence.

#### **Community and Commission action points:**

To use and develop as far as possible Community social budget lines to investigate the above-mentioned areas<sup>16</sup>, along with studies on the role of trafficking in the spreading of sexually transmitted diseases and drug abuse. To identify, through specialised workshops of practitioners and researchers, the priority areas for specialised research;

To publish and make available Commission-funded research.

#### **EU action point:**

To allocate appropriate studies under the "STOP" programme, particularly taking the future work of the Europol Drugs Unit into account.

### **II. 1. c: Cooperation and Coordination**

A clear conclusion to be drawn from the lack of comprehensive information available to assist agencies, is that there is an urgent need to share what information is available, and for agencies to act in a coordinated manner. At the Vienna Conference, both government authorities and NGOs felt that there was insufficient contact between the persons involved in the various stages of help for victims, and repeated calls were made for national central coordinating bodies to be set up in the Member States, made up of law enforcement, migration, judicial and social authorities, and also of members of NGOs. Clearly, the

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<sup>16</sup> for example, the Fourth Programme on Equal Opportunities.



establishment of such bodies is a matter for the Member States alone to decide, but the Commission finds it hard to see how trafficking could be effectively combatted, at national as well as at international level, without forms of internal coordination. Mechanisms for centralisation of data would assist the creation of comparable information, but there appears to be a lack of contact also on individual cases, for which forms of communication need to be improved.

It is not only within or between Member States that increasing coordination would be useful. Other international organisations are also active in this field. The Council of Europe, through the work of its Steering Committee for equality between women and men (CDEG), has been active in the field of trafficking in women and forced prostitution since September 1991, when it organised a Seminar on action against traffic in women<sup>17</sup>. As a follow-up to the Seminar, the CDEG established a Group of Specialists on action against traffic in women and forced prostitution, which, in 1994, defined an action-oriented list of priorities to be considered by the Steering Committee. Subsequently, the CDEG asked an expert consultant to draw up a Plan of Action, based on the recommendations made in the report of the Group of Specialists<sup>18</sup>. At a recent meeting on 22-25 October 1996, the CDEG decided that it should consider setting up a multisectorial Group of Specialists, entrusted with preparing proposals for concrete action which might take the form of a Recommendation.

The Commission will seek to improve its links with international and regional organisations such as the United Nations, Council of Europe, EU institutions and other regional groupings, in order to identify the relevant needs and priorities, and to benefit from improved complementary policies. These include support for bodies that monitor and promote actions addressing the specific problem of trafficking, promotion of medium and long term programming of priority activities to be implemented jointly, and stepping up exchanges of information on activities under way and on relevant research projects.

Since the Vienna Conference, the Commission has appointed a coordinating point for its actions<sup>19</sup>. The Commission would also like to see more contact between NGOs in different countries for exchange of best practice and possible common projects.

**Member State action point:**

To consider ways of improving collection of national data, and for communication mechanisms between concerned groups and authorities.

**Member State and Commission action point:**

To coordinate closely work in the Council of Europe.

**EU and Commission action points:**

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<sup>17</sup> see "Proceedings of the Seminar, Strasbourg 25-27 September 1991

<sup>18</sup> "Plan of Action against traffic in women and forced prostitution", Michèle Hirsch, EG(96) 2, Strasbourg 1996. In its preparation of the Vienna Conference, the Commission took the work already accomplished by the Council of Europe into account.

<sup>19</sup> in the Task Force for Justice and Home Affairs.

To consider with other international organisations coordinated policies, and the possibility of joint actions;

To step up dialogue with and encourage networking of NGOs working in different countries, both in and outside the EU.

#### **II. 1. d: Information campaigns**

An important measure of prevention is to provide women in source countries with information about the possibilities and the limitations of legal immigration and about the risks of exploitation which illegal immigration presents. Important work by NGOs in third countries is already done but needs to be consolidated and extended. A decisive role would appear to be for NGOs, with their specialised knowledge of local conditions through experience in the origin countries. The role of Member State embassies and consulates is also important, and was recognised by the Council in 1993, when one of its five recommendations against trafficking<sup>20</sup> was to launch information campaigns in diplomatic and consular circles to forestall the exploitation of prostitution. Further work could be done in this respect in conjunction with host governments, perhaps also by targeting young people in education.

Information on ways of seeking assistance must be directed to women who have been trafficked and are in the EU. It is provided through social and health departments, as well as through NGOs and the Commission is looking at ways of assisting in the provision of information. Women who enter the EU in licit employment, but who are forced into prostitution also need to be informed of their rights and helped to gain access to systems for the protection of those rights.

In order to discourage potential clients, preventive work on information on health risks could be stepped up. This would also help in reducing risks to public health within the EU.

#### **Community and Commission action points:**

To find ways, with the support of the Budgetary Authority, of increasing funding for information work by NGOs;

To support information campaigns for assistance to victims;

To support information campaigns to discourage potential clients.

#### **Community and Member State action point:**

In accordance with the Fourth medium-term Community action programme on equal opportunities, to encourage the setting up of information systems on the rights of victims; to exchange information between Member States on a regular basis on how to tackle abuses connected with trafficking.

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<sup>20</sup> Recommendations on Trade in Human Beings - Council Press Release 10550/93 of 29-30 November 1993, see Annex 2.

### **Commission action point:**

To consider, with Member States, coordinated information campaigns on trafficking in third countries with the EU delegations.

### **II. 1. e: Training**

The need for interdisciplinary, as well as specific training for each professional group was recommended during the Vienna Conference. Both types of training could be covered at European level by the future Grotius exchange programme<sup>21</sup>, as well as by the "STOP" programme.

#### **Action points:**

see particularly:      II.2.a - Migration Training;  
                                 II.4.b - Law Enforcement Training;  
                                 II.5.e - Training in the Social Field.

### **II. 2 : MIGRATION**

Migration issues (visa, controls on entry into, stay in and subsequent circulation between the territory of the Member States) play an important role within the general pattern of the trafficking phenomenon. According to the Treaty on European Union, immigration policy and policy regarding nationals of third countries, together with rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon, are considered matters of common interest. (Art. K. 1 points 2 and 3). Thus the legal basis for joint actions in the specific field of migration policy exists in the Treaty.

#### **II. 2. a: Migration Training**

*The Vienna Conference recommended strengthening training and public awareness of civil servants dealing with migration (particularly those at embassies and consulates, and those in charge of the delivery of visas), and inclusion of "trafficking in women" in future multianual exchange programmes.*

The Commission agrees with the need to develop information and training for embassy and consular staff, as well as migration services within the Member States. In those third countries subjected to a visa requirement to enter the EU, the power of issuing visas provides a double opportunity to embassy staff to make would-be applicants aware of the risks and realities, and to be alert to the tactics of traffickers.

The "Sherlock" programme for training, exchange and cooperation in the field of identity documents was adopted on 28 October on the basis of a proposal from the Commission. This programme aims at improving the theoretical and practical understanding of the security of

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<sup>21</sup> This programme is being set up during 1996 under the third pillar, and relates to training and exchange programmes in the judicial field.

identity documents, and could play a positive role in the struggle against trafficking in women, when forgery and the use of false documents occur. It is expected that 5 MECU will be made available for the period 1996-2000 under the programme.

A Commission pilot project on migration and external borders was carried out during 1996 and the Commission will shortly introduce a proposal for a multi-annual training and exchange programme for officials of Member States dealing with migration, asylum and external borders.

**EU action points:**

To use the "STOP" programme for training of migration officials;

To carry out training actions related to false documents, in compliance with the multiannual Sherlock programme.

**Commission action point:**

To introduce a proposal for a multiannual programme on training and exchange of officials responsible for immigration, asylum and external borders, which will take into account the need for specific training for the officials dealing with these matters in the field of combatting and preventing trafficking in women.

**II. 2. b: Temporary Permit of Stay**

*To address the issue of a temporary permit of stay for victims prepared to act as witnesses in judicial proceedings, and to have proper coordination between judicial and police authorities to avoid expulsion without consultation.*

Research shows that trafficked women who reside illegally in the countries rarely escape their traffickers. Fear of repatriation prevents them from cooperating with authorities against traffickers. In many cases the victims are indeed swiftly repatriated. From the point of view of combatting traffickers, this is an unsatisfactory situation, for without the evidence of the victims, cases may never come to court. Since the Vienna conference an initiative by Belgium, including *inter alia* a proposal for a temporary permit of stay, has been put before the JHA Council and discussions are ongoing. The Commission supports the principle of a permit of stay, both to combat traffickers and to protect victims. It is particularly important to ensure that the length of any permit should at least cover judicial proceedings against traffickers. It should also be clear that after court proceedings, so long as return has not taken place, the holder of the permit has legal status in the host country.

**EU action point:**

To reach rapid agreement on the draft joint action on a temporary permit of stay for victims.

**II. 3 : JUDICIAL COOPERATION**

Traffickers will continue to take advantage of gaps and limits of the national judicial systems unless judicial cooperation between EU States is improved. Victims also need to be able to rely on the judicial system, and forms of witness protection are needed to give victims the opportunity to speak out against their traffickers. The Vienna Conference raised a variety of issues of judicial cooperation, including criminalisation of trafficking, confiscation of proceeds of trafficking, and witness protection schemes.

### **II. 3. a: Existing International Instruments**

The position regarding international instruments is not satisfactory. A collection of more than 5 international instruments were drawn up in the period 1900 to 1950 dealing with trafficking in persons and prostitution. The focus of these conventions varies but generally they provide for the criminalisation of certain types of behaviour associated with the trafficking of women for the purpose of prostitution or make provision for cooperation between states to deal with the problem. None of these has been ratified by all 15 Member States.

### **II. 3. b: National Legislation**

#### *Preparation of an inventory and evaluation of national legislation*

In most Member States, legislation does not specifically address the question of sexual exploitation of women trafficked from abroad, or the problem is addressed in the context of procurement for the purposes of prostitution. However, some Member States do take account of the vulnerable position of women trafficked from abroad.

#### **EU action points:**

To implement the proposal in the "STOP" programme to collect information on relevant national legislation, to help assessments to be made of its effectiveness, as well as to facilitate judicial cooperation;

To consider encouraging source third countries to introduce and implement effectively criminal legislation against traffickers.

### **II. 3. c: New European Union Legal Instrument**

*Improvement of criminal legislation. The Vienna Conference made specific recommendations on criminalisation of abuse, confiscation of proceeds and extraterritoriality, protection of witnesses and sharing information on convictions*

The various gaps and inconsistencies identified in the recommendations would appear to justify the introduction of a new legal instrument to cover them. Since, however, the issues named fall primarily in the area of judicial cooperation on criminal matters, the Commission does not have a right of initiative<sup>22</sup>. It therefore particularly welcomes the proposal put to the

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<sup>22</sup> Treaty of European Union Article K3(2) second indent.

Council since the Vienna Conference to adopt an instrument in the form of a joint action to improve judicial cooperation in the fight against trafficking in human beings, which makes proposals on all the above items.

The Commission considers it imperative that agreement is reached on the following key issues:

the need for measures which will encourage and help victims of trafficking to report offences, particularly special arrangements for reception and provision of assistance;

the need to take account of the abuse and exploitation of the particularly vulnerable position and dependency of the victims regardless of apparent consent;

arrangements are required for dealing with protection of witnesses which could apply to victims of trafficking and which involve the NGOs who provide assistance for victims;

the need for information exchange between judicial authorities including the establishment of a legal basis for the spontaneous sharing of information;

confiscation of proceeds of organised crime relating to trafficking in women.

A number of Member States have recently changed national law to allow for extraterritorial jurisdiction in cases of sexual abuse of children (child sex tourism). It is vital to dismantle networks of traffickers, but very few Member States have provisions extending to those caught trafficking or exploiting adults. The Commission does not think that this legal gap provides an adequate reflection of the gravity of any sexual exploitation.

**Member State and EU action point:**

To reach agreement on a joint action on judicial cooperation covering trafficking in women which includes the key issues mentioned above and to consider introduction of extraterritorial jurisdictional provisions to cover traffickers in human beings.

**II. 3. d: Sanctions**

In addition to the Vienna recommendations on criminal legislation, the Commission notes differences of approach to *sanctions* provided for in Member States' laws on traffickers.

In at least one EU state, severe sentences (up to 15 years imprisonment) can be imposed in the case of organised trafficking. However, since not all EU states have specific offences related to trafficking, there are considerable discrepancies in the level of sanctions provided for in national legislation. The Commission is of the view that offences related to trafficking in women for the purpose of sexual exploitation should in every Member State attract penalties involving deprivation of liberty and other measures.

**Member State action point:**

To consider the introduction of serious penalties for trafficking, which adequately reflect the grave nature of the offence.

## II. 4 : POLICE COOPERATION

Trafficking in women appears to be largely in the hands of organised crime networks, operating as structured international enterprises. It may often be connected with other criminality, such as drugs trafficking. No single law enforcement agency in a Member State is able to combat trafficking alone. This chapter must be seen in the context of the present debate in the JHA Council, where Member States have the sole right of initiative<sup>23</sup>.

### II. 4 a: Cooperation and Communication

*Analysis and information exchange, and improved communication and cooperation between law enforcement authorities, including appointment of national contact points and directory.*

Within Member States, communication between law enforcement services is of course a matter for internal regulation. Many states have a small police strength specialised on crimes of vice, with expertise of trafficking as a form of criminality limited to these persons with direct experience of victims. In some states, there have been moves towards the establishment of specialised units of law enforcement authorities, either of a multidisciplinary nature for different authorities (law enforcement, social, immigration), or with the objective of providing a national contact point only for improved law enforcement information exchange. There are of course different ways of setting up structures at national level, which must take different national systems into account. What is important is that efficient methods of communication exist.

To improve international cooperation, Member States agreed in 1994 to include trade in human beings in the Convention to establish Europol. Europol will be an information and intelligence exchange organisation for EU law enforcement, and final agreement on the Convention was reached at the European Council in Florence on 21-22 June 1996. Article 2 of the Convention lays down combatting of immigrant smuggling and trade in human beings as two of the priority areas of activity for Europol. The Convention will come into force once all Member States have completed ratification, when Europol will be required to develop a role in strategic and operational analysis of traffic in human beings which is part of organised crime. Under Article 42(2) of the Convention, Europol and Interpol will have a formal cooperation agreement, which might explicitly include trafficking in human beings.

In the interim, the first stage of Europol, the Europol Drugs Unit (EDU), has a mandate, which was extended in March 1995 to include action against clandestine immigration networks, and again on 27 September 1996 to traffic in human beings. Ministers also agreed that the EDU is to establish a Directory of specialised competences (a list of contact points for law enforcement purposes) for the fight against crime, with as a priority, a Directory

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<sup>23</sup> Under the TEU Article K3(2) second indent, there is no Commission right of initiative to make legal proposals in this field.

covering illicit drug trafficking and trafficking in human beings. This is a significant step in the improvement of police cooperation at European level, and is greatly welcomed by the Commission. For the EDU to be effective, provision of fast and accurate national information will also need to be improved.

The Vienna Conference recommended appointment of national contact points. In some cases this may be addressed through the Directory of specialised competences, but it would seem appropriate for each Member State to designate such a contact point, if it has not already been done.

One of the first tasks to be addressed under the "STOP" programme is likely to be studies on the centralisation of information and analysis on subjects including victims of trade in human beings, along with the advisability of establishing a database for recording of DNA intelligence.

**Member State action point:**

To ensure rapid ratification of the Europol Convention.

**EU action point:**

For EDU to set up the Directory of specialised competences and for Member States to designate national contact points.

**II. 4. b: Law Enforcement Training**

*To develop operational training on the one hand, and sensitisation training on the other.*

Already in 1993, the Council agreed that more training was required for law enforcement officers to combat trafficking in human beings for the purposes of prostitution. When the Commission requested information from the Member States on the level of follow-up to the recommendations in May 1996, one Member State reported specific training courses which were open to other EU states (although to date only two neighbouring states had taken up the offer). Small units of specialised officers exist in some Member States, but the Vienna conference showed that improved knowledge on networks and forms of trafficking, and related money laundering, including large business organisations, was needed on a wider basis.

In relation to victims, the police response may have been characterised in some cases by poor awareness of the women as victims of crime. A low expectation of police as providers of assistance would of course aggravate reluctance from victims to cooperate and lack of victim confidence is therefore an important issue. The Vienna conference view was that an appropriate police reaction to victims can be best developed through specialised training. Relevant language skills were also mentioned as of significance to improve communication with victims. A draft Title VI programme (Oisin) due for agreement shortly will provide



training for law enforcement officers<sup>24</sup>.

**EU and Member State action points:**

To include in the "STOP" programme the above aspects in the training programmes for law enforcement officers;

To sensitise police to the position of victims, for example through joint training courses with bodies caring for victims;

To provide training in the languages of the victims, or at least to provide interpretation facilities;

To provide joint training courses with bodies caring for victims;

To develop training courses on trafficking under the "Oisin" law enforcement programme.

**Member State action point:**

To make trained female officers available when requested by victims, and to inform victims of this possibility.

**II. 4. c: Third Countries**

*Cooperation with third countries (training, contact points)*

Where training is being developed by the Member States, law enforcement officers from third countries, particularly those of central and eastern Europe could contribute and benefit. Programmes such as those of the Central European Police Academy (MEPA) and joint international programmes already in existence from some Member States provide not only exchange of best practice, but appear to create important opportunities for development of contact points for operational purposes to supplement the assistance provided by international lists of contact points.

The 1993 JHA recommendations referred to designation of specialised liaison officers, and a number of Member States have implemented this in major source countries.

**EU and Member State action points:**

To open training to the countries of central and eastern Europe, and to extend the directory of contact points to be held by the EDU to non-EU countries;

To make best use of EU specialised liaison officers in source countries, in particular

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<sup>24</sup> 12 MECU are foreseen for this programme for 1996-2000 (2 MECU in 1996 and 2.5 MECU from 1997 onwards), depending on the appropriation which is voted annually by the Budgetary Authority.

sharing of resources, with the aim of improvement of cooperation with local law enforcement authorities.

## II. 5 : SOCIAL AND EMPLOYMENT DIMENSION

The Member States, local authorities and civil society in general are responsible in this area. The Community shall take action only if the objectives of the proposed action cannot be sufficiently achieved by the Member States. Whilst the Commission programmes discussed below can contribute to the fight against trafficking, they are not a substitute for Member State action. Thus the Union might become involved in<sup>25</sup> heading and coordinating forward studies of social problems in the Union, circulating information, disseminating experiences, stimulating thought and action in the Member States, encouraging cooperation, drawing the attention of the public to social problems of common concern, and helping to resolve problems which, although pertaining to the Member States, call for a common approach<sup>26</sup>.

### II. 5. a: Information

*Preventive information in EU: Support for information campaigns for raising public awareness of violence against women, as well as the exchange of information and of good practice in the fight against trafficking in women.*

see "Information Campaigns" above Section II. 1. d

### II. 5. b: Social Programmes

*Development of assistance programmes, social exclusion programmes and measures on reintegration into society within EU including public health*

A number of Member States have initiated national programmes of integrated approaches to combat social and labour market exclusion involving cooperation between national, regional and local levels. Using this example, the new EU Integra programme is designed to promote the integration into employment of groups most at risk of exclusion from the labour market, through partnership between public authorities, NGOs, SMEs, social partners and associations. Victims of trafficking can come within the remit of the programme. Among the measures foreseen, the following are of note: basic skill training, advice and counselling, assistance to geographical mobility, and exchanges of best practice.

There is a need for strengthening action to protect public health regarding both victims and clients, both of whom can spread numerous transmissible diseases (AIDS, hepatitis etc). Such

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<sup>25</sup> The Commission has already co-financed or given support to a few isolated actions, either under the third Community programme on equality between women and men(1991-1996), or in the framework of projects in the fight against social exclusion, including a colloquium on trafficking in women in October 1996 in Greece, and forthcoming conferences on women and violence on the Internet in 1997 in the UK, and a Netherlands Ministerial Conference in April 1997.

<sup>26</sup> Recommendations contained in the Report of the Comité des Sages "For a Europe of civic and social rights". (1996).

action should include prevention, and medical and psychological assistance to victims, with particular attention to reach the victims where they are.

**Member State action point:**

To support and develop local and national assistance programmes, social exclusion programmes and measures for reintegration.

**Commission action points:**

To make full use of the possibilities provided in the new Integra programme to assist victims of trafficking, in coordination with Member States;

To make use of the "Leonardo" programme in order to provide training for people at risk;

To make use of the Programme "Prevention of AIDS and certain other communicable diseases...", and the Programme "Health Promotion ... in the field of public health", to help victims<sup>27</sup>.

**II. 5. c: Reception and Rehabilitation Centres**

*Creation of further reception and rehabilitation centres*

Some Member States have centres for victims who have escaped their traffickers, and NGOs help or run such centres. It is obviously vital that appropriate social and health assistance, as well as caring accommodation is available to help victims recover, who may be in poor physical and mental condition.

**Member State action point:**

For all Member States to support reception and rehabilitation centres.

**Commission action points:**

Examine the possibilities to use the Youth for Europe programme<sup>28</sup> to help in provision of havens for victims and to integrate, if possible, young volunteers of the new European Voluntary Service in some of the rehabilitation projects;

To exchange experience and best practice with regard, amongst other things, to the establishment of rehabilitation centres, access to the centres (for example through the use of "Outreach" workers), and protection of confidentiality.

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<sup>27</sup> Decision No 647/96/EC, and Decision No 645/96/EC.

<sup>28</sup> The Youth for Europe programme promotes active citizenship amongst young people. It encourages a policy of cooperation between Member States in the youth field.

## **II 5. d: Employment Conditions**

In addition to the Conference Recommendations made in Vienna, the following need to be considered: *Employment, in relation to attention to the working conditions of au-pair girls, bar and restaurant employees, certain health institutes etc. Legal requirements on employers in the context of right of establishment within the European Community.*

Some Member States have introduced requirements relating to working conditions of au pair girls, in order to avoid exploitation.

All Member States have social and health inspections in bars, restaurants and hotels. Through these controls, cases of forced prostitution may be brought to light.

Member States may request proofs of good character or repute for employers of bars, dancing establishments, massage parlours and for those running marriage bureaux and escort services, or for those involved in transport of immigrants. If they request such proofs, they must recognise proofs delivered by the Member State of provenance, according to Community directives, in the context of the right of establishment in the European Community<sup>29</sup>.

### **Member State action points:**

To exchange information on best practice on au pair working requirements;

To have coordination between social and health inspectorates, and law enforcement services with the aim of identifying and helping victims;

To assess whether the provisions in Community Directives concerning proofs of good character and repute provide an effective means of guaranteeing legitimate public order concerns for the activities to which they apply;

To assess the efficacy of Directive 64/221 on the coordination of special measures concerning movement and residence, which are justified on grounds of public policy (implementation of Article 56 of the Treaty of Rome).

### **Commission action point:**

To encourage the Member States to assess the efficacy of the proofs required, and on the basis of the results of that assessment, if necessary, to propose appropriate action.

## **II . 5. e: Training in the Social Field**

In addition to the Conference Recommendations made in Vienna the following should be mentioned: *the development or creation of programmes to train, for example, health and social personnel in dealing with victims, and in languages in order to empower them to help victims effectively.*

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<sup>29</sup> Directive 68/367, Directive 75/368, Directive 82/470.

Social and occupational rehabilitation of victims, once they have been granted legal residence, requires them to be in a position to take up training to prepare them for a new life. Specialised training is needed for members of the health and social professions.

Teacher training, as well as exchange of information actions, as developed by the SOCRATES programme, can play a role. Adult Education projects for victims could also be supported by the SOCRATES programme<sup>30</sup>.

**Member State action point:**

To support local and national programmes for training of social and health personnel.

**Commission action points:**

To examine the possibilities of specialised training for health and social workers in the framework of "Socrates" and/or "Leonardo";

To use "Socrates" and/or "Leonardo" adult education programmes for victims.

### **PART III: COOPERATION WITH THIRD COUNTRIES**

The main objectives for the Community's development co-operation include the fight against poverty, the promotion of human rights and democracy, and sustainable development<sup>31</sup>. The problem of trafficking relates directly to all of these objectives.

It is not only trafficking from third countries into the European Union which needs to be addressed, since this is only one part of a much larger global pattern. Sexual trafficking occurs on a very substantial scale, both within developing countries (rural areas to urban areas and major travel arteries), and between developing countries and developing neighbours with substantial sex industries. Trafficking between third countries also appears to be increasing from the New Independent States to the countries of Central and Eastern Europe.

The range of instruments already used includes co-operation programmes with government authorities in source countries, budget lines for funding action by NGOs and civil society (particularly those relating to human rights), and these could be further developed, along with

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<sup>30</sup> Socrates is a multiannual programme of the European Union in the field of general education. Its main action is the exchange of students under the "Erasmus" scheme and the establishment of school-partnerships under the new "Comenius" action. However, the programme allows actions in other fields of education, where we want to test new pedagogical methods and disseminate good practice.

Leonardo is a multiannual programme in the field of vocational training. Its main actions are the sensibilisation of trainers for European questions and the exchange of young workers. Here again the programme allows actions to test new training methods and disseminate good practice.

Both programmes will also be used to assure the follow-up of the European Year of lifelong learning.

<sup>31</sup> Treaty on European Union Art. 130u.

mobilisation of the provisions for dialogue with third country governments on human rights issues included in the new generation of agreements between the Community and third countries. The Community's most important partners are the source countries, so it is of primary importance to maintain and step up dialogue with national authorities and institutions there. International cooperation with other source third countries is also vital. The Community should also seek to assist the development of cooperation between third country affected regions<sup>32</sup>.

**Community and Commission action point:**

To consider use, where possible, of agreements with third countries to discuss trafficking in women and the way in which partners can work together.

*Vienna Conference Recommendations:*

*To develop assistance programmes and special measures that facilitate reintegration in the society in the country of origin and combat social exclusion, including better use and extension of various EC programmes in the framework of development cooperation and agreements with third countries.*

*For Member States and the EU to support initiatives of the countries of origin for full reintegration of victims.*

III. 1 : CENTRAL AND EASTERN EUROPE AND THE NIS

Existing programmes address the root causes of trafficking through the consolidation of pluralistic democratic procedures and practices with a view to supporting the overall process of economic and political reform. A wide range of actions are already financed which aim at promoting and protecting women's human rights and children's rights<sup>33</sup>, and of most importance are the Phare and Tacis Democracy Programmes, whose general objectives are to assist the development of civil society, particularly democratic principles based on multi-party systems, human rights, the rule of law and economic freedom, in the countries of central and eastern Europe and the New Independent States. Areas of activities in which the specific issue of trafficking in women has been addressed are promotion of human rights, civil liberties, equal opportunities, non-discriminatory practices, access to education and media, and administration of justice and police. A specific project on "Prevention of traffic in women" was funded under the 1994 Democracy programme led by the Stichting Tegen Vrouwhandel together with partners in the Czech Republic and Poland.

Also important are the Phare and Tacis LIEN Programmes, with the objective of supporting

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<sup>32</sup> Limited support has already been given to reintegration schemes for women trafficked within some Asian countries.

<sup>33</sup> Under Budget Lines from the B7-7 Chapter " European Initiative for Democracy and the Protection of Human Rights".

NGO initiatives in favour of disadvantaged sections of the population in Central and Eastern Europe. Assistance to women, in order to raise their health and social status, and to help them have access to professional training and employment opportunities is singled out. Marginalised groups are also targeted, including street children, the homeless, victims of diseases and drug-addiction and the under-privileged, to improve access to minimal care and living conditions in general, and to facilitate social reintegration.

**Community and Commission action points:**

To make continued use of the Phare and Tacis Democracy and LIEN Programmes;

To stimulate use of any relevant Community programmes in the framework of the additional protocols to the Europe Agreements with the CEEC;

To develop the legal framework in the CEEC and NIS countries through Phare and Tacis, in the context of policy advice, to promote actions in cross border cooperation to prevent illegal migration, including in the new programmes related to the third pillar;

To inform NGOs that the B7-7 Democracy Programme can also be used for actions to support victims of trafficking, such as development of prevention campaigns, development of confidential health care services and provision of social, medical and psychological support to victims of trafficking, development of comprehensive programmes designed to rehabilitate into society and/or into the country of origin, victims of trafficking through job training and legal assistance, development of human rights education which addressed the specific problem of trafficking in women and children;

To use the budget line on support for organisations offering practical aid to victims of human rights violations (rehabilitation, legal advice, health treatment and assistance for victims of Human Rights violations), for specific project on victims of trafficking (B7-707);

To target to the fight against trafficking, subsidies for certain activities of organisations pursuing human rights objectives (B7-7040).

**EU action point:**

To improve police and judicial cooperation, in particular with the CEEC in the framework of the structured dialogue on justice and home affairs.

**III. 2 : AFRICA, CARIBBEAN AND PACIFIC COUNTRIES (ACP)**

Existing programmes address root causes of trafficking, such as poverty, unemployment, and

health, as well as the health conditions of prostitutes. A human rights budget line<sup>34</sup> helped to finance a preparatory seminar and preparatory studies, and, part of the travel expenses to the Conference against sexual exploitation of children held in August 1996, allowing representatives of organizations from the third world countries to be in Stockholm. NGO projects have been cofinanced, such as sensitisation and reinsertion of street children, female prostitutes and victims of trafficking, help for networks of women's NGOs and for NGOs working to combat AIDS and sexually transmitted diseases.

#### **Community and Commission action points:**

To mobilise the European Development Fund in new fields such as improvement of legislation, judicial and police training against trafficking in women, and prevention and awareness-raising actions;

To promote dialogue on these issues with ACP countries, based on the Commission's experience in the field of drugs, and to designate an ACP rapporteur at the next Joint Assembly to initiate such a dialogue;

To support a pilot project to be devised in cooperation with NGOs, Member States and international organisations to be set up in a target country. It could concern prevention, training and rehabilitation (perhaps some victims could be offered an active role in their own rehabilitation i.e. designing, setting up and carrying out campaigns in the country);

To identify with other bodies involved (NGOs, Member States, international organisations) and set up incentive measures, research and pilot projects (rehabilitation, awareness and information campaigns with a view to prevention, targeting specific groups and the authorities concerned), using the relevant budget headings<sup>35</sup>.

### **III. 3 : ALA/MED COUNTRIES**

The Community's development co-operation with Asian, Latin American and Mediterranean Basin governments seeks to deal with root causes of trafficking in a range of ways. A high proportion of resources has always been devoted to developing rural areas, with the aim of combating poverty, expanding income-generating opportunities close to home, and reducing involuntary migration. Particular attention is now being paid to gender issues: improving the

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<sup>34</sup> B7-702, Human Rights and Democracy in developing countries.

<sup>35</sup> - B7-7020, Human Rights and Democracy in developing countries;  
- B7-6000, Community contribution towards schemes concerning developing countries carried out by non-governmental organisations;  
- B7-611, Women in development;  
- B7-633, Small credit facilities for women in developing countries;  
- B7-641, Rehabilitation and reconstruction measures for developing countries;  
- B7-6211, Health Programmes and the Fight against HIV/AIDS in developing countries.



economic position of women and their opportunities for income, and empowering local women to take an active part in decision-making at household and community level. A range of "positive action" programmes aims to raise women's low status, increase girls' access to literacy and basic education, and foster women's general confidence and awareness.

In urban areas, Community-funded programmes focus on poor and disadvantaged communities, where women are most likely to be drawn into sexual exploitation. The "MEDA Democracy Programme"<sup>36</sup> allows for positive action to encourage responsibility for human rights and democratic freedoms including women's rights, and a 4 MECU programme in Central America focuses on rehabilitation and re-training of adolescent girls who have been sexually exploited. Urban development programmes support community networks, credit for income-generating activities, action against drugs and formation of women's solidarity groups. Special priority is given to providing support centres, re-training and rehabilitation for street children, especially girls, who are often prime targets for sexual exploitation.

**Commission action points:**

To identify with other bodies involved (NGOs, Member States, international organisations) relevant Mediterranean, Asian and Latin American NGOs, such as women's associations;

To facilitate inclusion of a project on trafficking under the "MEDA Democracy Programme" and to use other relevant budget headings<sup>37</sup> to set up and support incentive measures, research and pilot projects (rehabilitation, awareness and information campaigns with a view to prevention, targeting specific groups and the authorities concerned) as well as projects aiming at the victims' social and economic reintegration.

**Community action point:**

To promote dialogue on sexual exploitation, where possible using agreements with third countries.

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<sup>36</sup> Under this programme, the Commission has already funded a Tunisian based NGO, "El Taller" to work on the creation of a permanent tribunal against violence against women.

<sup>37</sup> B7-611, Women in development;  
B7-633, Small credit facilities for women;  
B7-703, Human Rights, and to look into the possibilities of using the general development cooperation budget lines to cover projects in this sense.

#### PART IV: CONCLUSION

Thanks to recent initiatives including from the Council of Europe, the European Parliament and the Commission's Vienna Conference, this topic is now high on European agenda. Actions have been launched which need to be finalised and implemented as soon as possible. The present momentum should not be lost. We need now to develop a consistent and long term approach at European level, and the action points identified by the Commission<sup>38</sup> in this document need now to be discussed in the relevant fora. The Commission notes with satisfaction that the forthcoming Netherlands Presidency will continue to treat trafficking as a priority subject<sup>39</sup>, and the Commission will as a priority take up contacts with relevant NGOs.

Regarding the third pillar area, in addition to the present important initiatives, continuity has been ensured by the inclusion of trafficking in human beings as one of the priorities in the pluriannual work programme adopted by the JHA Council. There is a need for a similar long term approach in other areas, where objectives must be determined, along with regular evaluation of implementation.

If we are to tackle trafficking seriously, adequate financial resources will need to be made available, both at EU level, and nationally. In this connection, it is a positive sign of recognition of the problem, that in December 1996, the European Parliament will vote on an expected allocation of 3 MECU for exploited women and children.

The Commission is convinced that all EU institutions and the Member States must continue to play an active part in order to put an end to the increasing and serious problem of trafficking in women.

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<sup>38</sup> see list in Annex 1.

<sup>39</sup> The Commission will be pleased to support a Ministerial Conference on Trafficking to be held in the Hague in April 1997.

**A code of practice on the implementation of equal  
pay for work of equal value for women and men  
COM(96) 336 final, 17. 7. 1996**

**Summary**

**Introduction**

**Part I — Addressees of the code**

- A. Businesses**
- B. Partners in wage negotiation**
- C. Individuals**

**Part II — Study of pay structures**

- A. Relevant information**
- B. Assessing the general information**
- C. Particular aspects of the pay system**

**Part III — Follow-up action to target equal pay**

- A. Approach**
- B. Points which could feature in a follow-up action**
- C. Evaluation of the follow-up action**

**Conclusion**

## Introduction

The principle of equal pay for men and women for work of equal value is based on Article 119 of the Treaty of Rome and on the 1975 directive relating to the application of the principle of equal pay for men and women<sup>(1)</sup>.

Despite these provisions of Community law having been adopted and transposed into the legislations of the Member States 20 years ago, the differences in pay between women and men remain considerable. Indeed, information available on the manufacturing and retail trade sectors (by way of an example) shows a significant disparity between women and men's wages in all the Member States.

What is more, it is confirmed that these pay differences are even greater for non-manual than they are for manual workers, which reflects the many different types of job available and the tendency for men to occupy managerial positions and women to be secretaries, whereas in the case of manual workers, the distribution of jobs, and therefore of pay is more restricted (the calculation of the disparity of women and men's pay is based on gross average hourly pay for manual workers and on gross average monthly pay for non-manual workers).

However, it is worth noting that the average wage is calculated on a general base which includes the pay both for full- and part-time workers. The fact that the proportion of women with a part-time job is greater than that of men could partly explain why they make up a greater proportion of those on low pay.

The difference between women and men's incomes is due to many factors and in particular:

- to the vertical and horizontal segregation of jobs held by women and men (so-called female jobs are still generally less well paid),

- to the numerous sectors of the economy where mainly men work offering extra pay, working time bonuses etc, all of which widen the pay disparities between the sectors outside of the base rates,

- to the considerable differentiation in pay resulting from collective agreements linked to the recognition of skills, to the type of business and the type of industry or sector. Gender-specific segregation in employment applies to each of these divisions, increasing the potential for such differentiation,

- to the systems of collective agreements which allow salary structures to reflect the negotiating power of different groups of employees. As a result, women are generally weaker in negotiations.

In order to help lessen this difference, the Commission has decided to adopt this code of practice which follows on from its memorandum on equal pay for work of equal value, published in June 1994<sup>(2)</sup>.

The code aims to provide concrete advice for employers and collective bargaining partners at business, sectoral or intersectoral level to ensure that the principle of equality between women and men performing work of equal value is applied to all aspects of pay. In particular it aims to eliminate sexual discrimination whenever pay structures are based on job classification and evaluation systems.

The code is intended to be applied in the workplace both in the public and the private sector. Employers are encouraged to follow the recommendations in the code, adapting them to the size and the structure of their businesses. The nature of the approaches and measures set out in the code is neither exhaustive nor legally binding but provides models for action which could be taken in the area in question. The code should be read in conjunction with the memorandum, which illustrates the principle of equal pay in the light of the decisions of the Court of Justice of the European Communities.

<sup>(1)</sup> Directive (EEC) No 75/117 of the Council OJ L 45, 19.2.1975, p. 19.

<sup>(2)</sup> COM(94) 6 final.

Codes of practice are more widely and effectively applied when they have been conceived in close cooperation with the intended users. This is why the Commission consulted the social partners on the content and drafting of the current code. It was essential for the code to reflect, as far as possible, the approach proposed by the social partners, which was that the code should be short, its use voluntary and effective, and that it should be capable of being used during different stages of collective bargaining.

Essentially the code proposes two things:

- that negotiators at all levels, whether on the side of the employers or the unions, who are involved in the determination of pay systems, should carry out an analysis of the remuneration system and evaluate the data required to detect sexual discrimination in the pay structures so that remedies can be found,
- that a plan for follow-up should be drawn up and implemented to eliminate any sexual discrimination evident in the pay structures.

## Part I — Addressees of the code

### A. Businesses

The code is principally aimed at employers, regardless of whether they are from the public or private sector, because the principle of equal pay for work of equal value must in the first instance be applied by employers, who are required to pay equal wages whenever work of equal value is being carried out by male and female workers and whenever a difference in pay cannot be explained or justified other than on the basis of the worker's sex.

It is worth noting the particularly important role played by the public authorities as employers. Indeed, the full application of the principle of equal pay in the public sector would have an added value by serving as a good example.

Businesses, are of course invited, in agreement with their staff and/or their representa-

tives, to apply the measures proposed in the code, in the manner most suited to their size and structure.

### B. Partners in wage negotiation

The code targets the social partners directly. Indeed, most pay scales are the result of collective bargaining at sectoral or intersectoral level. The Court of Justice of the European Communities has also stated on a number of occasions that collective agreements must respect the principle of equal pay for the same work or work of equal value.

The task is therefore one of helping the parties in wage negotiations to remove all direct or indirect discrimination from the collective agreements concerned, thereby obtaining equal recognition for the work of women and men when the job requirements to be met are equal.

Indeed it would be desirable if at this level and subject to any necessary adjustments, the type of approach proposed could also be applied in relation to analysis of pay structures and follow-up action.

### C. Individuals

Finally, the code also aims to assist women and men who believe their work is undervalued because of sexual discrimination to obtain the necessary information to resolve their problem through negotiation or, as a last resort, to bring the matter to the national courts.

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It should be noted in this respect that the question of equal pay goes far beyond a mere study of pay structures within any one business, sector or group of sectors. It also requires action at national level not only on behalf of employers' and employees' associations but also by governments. To this end, for example, a national-level statistical apparatus allowing a survey to be carried out concerning the relative pay rates found in various branches, sectors or regions could prove to be an effective instrument in the measurement of

the extent to which a worker's sex accounts for the differences established.

## **Part II — Study of pay structures**

The study of pay structures aims to reveal any possible under-valuation of work typically carried out by women in comparison with that typically carried out by men and vice-versa. To this end the employer must determine, preferably in agreement with the staff and/or their representatives, what useful pieces of information should be gathered and then evaluate this information to see if there are signs of any procedures and practices relating to pay which are at the root of instances of discrimination.

This study should comprise three phases. First the relevant information should be collected and then it should undergo a two-stage evaluation. The first stage would be to draw up a general table showing the sex and pay of workers, and then the second stage would consist in analysing those pay-related elements identified as potentially discriminatory.

### **A. Relevant information**

Information relevant for the purposes of the analysis should be collected across the whole of the organisation's workforce. Pay analysis within one establishment or within an individual grading or bargaining structure is not adequate as problems of sex discrimination may well arise between employees who work at the same or separate establishments, across grading structures or in different bargaining units. The focus of the information collected will vary according to the structure of the company and its pay system. Some of the information set out below will not be relevant to some organisations. It is for the organisation to determine, in conjunction with its employees, what information is relevant and necessary for the analysis.

### *1. Employees*

Information about employees should be obtained from personnel and payroll records to show:

- gender
- grade
- job title
- hours of work excluding breaks
- bargaining unit or collective agreement
- required entry qualification
- other relevant qualifications
- length of service with organisation
- length of service with other relevant organisations
- basic pay
- additional payments and contractual benefits

The information should include temporary staff as well as those who are on permanent contracts and any employees who work as homeworkers/outworkers.

### *2. Pay arrangements and practices*

Information about pay arrangements and practices should be obtained from the organisation's rules, handbooks and collective agreements. This will vary from organisation to organisation but may include:

- job descriptions
- grading, classification and evaluation systems
- grading/classification criteria
- pay provisions of collective agreements
- rules governing entitlement to pay and other contractual benefits
- job evaluation manual
- performance pay handbook
- rules governing the operation of bonus and incentive schemes

- piece work or contract work pay arrangements
- information on the market situation of individual jobs where relevant.

It is important that information is also obtained on pay arrangements and pay practices which follow custom and practice as well as formal rules.

## **B. Assessing the general information**

The first stage of the assessment of the information should be the establishment of a general picture on gender and pay. An analysis may reveal that the pay system rewards employees by reference to qualifications. It may be that the qualifications rewarded do not reflect the informal qualifications which women have acquired. For example, in some Member States sewing skills might not attract a certificate but sewing machinists could not undertake the work without such skills. The definition of qualifications may need to be reviewed and in some cases expanded. Are the qualifications necessary for the jobs performed?

Where a large organisation has a complex pay structure, a clear course of action to address discrimination identified may not emerge. Therefore the wage structure should be transparent.

The general picture will provide an overview of pay arrangements and will assist in the identification of areas for priority attention. Particular aspects of the pay system will require a greater depth of analysis.

Examples of key indicators of potential sex bias are given below:

- women have lower average earnings than men with the same job title.
- women have lower average earnings than men in the same grade.
- women in female dominated unskilled jobs are paid less than the lowest male dominated unskilled job.

- jobs predominantly occupied by women are graded or evaluated lower than jobs predominantly occupied by men at similar levels of effort, skill or responsibility.
- women are paid less than men with equivalent entry qualifications and length of service.
- where separate bargaining arrangements prevail within one organisation those dominated by men receive higher pay than other bargaining groups dominated by women.
- the majority of men and women are segregated by different grading, classification and evaluation systems.
- part-time or temporary workers, who are mainly women, have lower average hourly earnings than full-time or permanent employees in the same job or grade.
- part-time or temporary workers, who are mainly women, have access to fewer pay and other contractual benefits.
- different bonus arrangements, piece rate and other 'payments-by-result' systems, apply in different areas of production affecting disproportionately one gender.
- different bonus, piece rate and other 'payment by results' calculations apply to different jobs in the same department affecting disproportionately one gender.
- different overtime rates apply in different departments affecting disproportionately one gender.
- holiday entitlements vary between jobs in the same grade affecting disproportionately one gender.

Whilst the findings above do not in themselves mean that there is unlawful sex discrimination in the pay system, they all merit further investigation. Each element in the make-up of pay or in the entitlement to pay and other contractual benefits needs to be analysed to ensure that there is an objective justification which is not affected by the sex of the workers explaining the differences in pay.

### C. Particular aspects of the pay system

Practices will vary from organisation to organisation and this will affect the outcome of the analysis. Set out below are examples of practices which might prove to be discriminatory together with guidance on how to address them. However, it should be stressed that these practices are only mentioned as examples and that it is in no case implied that they are to be found in all organisations.

#### 1. Basic pay

- **Women are consistently appointed at lower points on a pay scale than men are.**

Examine recruitment and promotion records to see if different treatment is objectively justifiable irrespective of sex.

Are qualifications rewarded by allowances necessary for the posts? Is the way qualifications are defined affecting women adversely?

- **Women are paid less than male predecessors in the job.**

Check if job duties and responsibilities are the same or have changed. Do the changes justify any pay reduction?

- **Women progress more slowly through incremental scales and/or seldom reach higher points.**

Check whether service pay is linked to ability to do the job rather than length of service. Where women have broken or shorter periods of service because of family responsibilities, they may be less able to meet length of service criteria.

Investigate criteria by which employees are progressed through a scale.

- **Men are paid more, by supplement or by a higher grading, because of 'recruitment and retention' problems.**

Adopt measures to deal with recruitment and retention problems e.g. existing staff could be trained and then avail of development initiatives. The pool from which staff are normally drawn could be ex-

panded. For example clerical and non-manual staff might be considered for management training and apprenticeships through the use of positive action.

#### 2. Bonus/performance pay and piece rates

- **Female and male manual workers receive the same basic pay but men have access to bonus earnings.**

Check if the differences in access to bonus can be objectively justified irrespective of sex. Do the differences in earnings reflect real differences in productivity? Investigate how access to overtime, weekend and shift working is provided.

- **Performance pay is only available to senior posts/full timers/employees covered by the appraisal system.**

Check if the coverage of the scheme and the exclusions are objectively justified.

- **Women consistently receive lower performance ratings than men.**

Review the criteria for performance rating to identify direct and indirect sex discrimination.

#### 3. Pay benefits

- **A smaller percentage of women employees than men are covered by the organisation's pay benefits.**

Check the eligibility requirements for pay benefits (such as sick pay, pensions, low-interest loans, share options scheme or other allowances) to ensure there is no indirect discrimination in particular in the criteria.

#### 4. Part-time workers

- **Part-time workers receive lower hourly pay rates or they are excluded from bonuses and benefits.**

Part-time workers are often excluded from pension and sick pay schemes. They may be required to work many more years than full time workers before they are eligible for training or service payments. Unless a clear



and objective explanation is provided, the exclusion of part-time workers is likely to amount to sex discrimination. Check whether part-time workers are treated differently and, if so, why.

### 5. *Job classification, grading, evaluation and skills/competency-based systems*

Job evaluation, grading classification and skills/competency-based systems are mechanisms which are used in some Member States to determine the hierarchy or hierarchies of jobs in an organisation or group of undertakings as the basis for pay systems. The following comments are to assist those organisations which use such schemes to analyse them to check they do not inadvertently discriminate against typically female workers in particular. Pay systems based on such schemes may have been in place in organisations for many years, without any review and many incorporate features which contribute to the undervaluing of work undertaken by women.

#### 5.1. NATURE OF THE ORGANISATION

**What is the objective of the organisation? What is its nature? What services and/or products does it provide?**

Asking these questions will contribute to a determination of whether the design of the scheme reflects reasonably the priorities of the organisation. It may transpire that by valuing certain elements in work the priority of the organisation is not reflected. For example, a scheme in a hospital which fails to value at all the care of patients but over-emphasises financial skills and responsibilities may require review.

#### 5.2. TYPE OF SCHEME

**Is the scheme capable of measuring the different elements in diverse work or does it rank jobs without such assessments?**

**Are different jobs covered by different schemes, for example one for manual and one for clerical workers, or are all jobs covered by the same scheme? In the latter case, is the system capable of evaluating**

**evenly the work performed by different groups of employees?**

**Is it appropriate to the jobs covered?**

Because of gender segregation in the labour market and the argument that traditional job evaluation and classification schemes are not capable of classifying inherently different work on a uniform scheme, often there has been no common yardstick for measuring typically male and female jobs. Schemes which do not cover certain types of predominantly female work obviously cannot determine whether such work may be equally demanding, albeit in different ways, as male work. The concept of equal pay for work of equal value requires the measurement of diverse work by reference to a common standard. Whilst this approach is not common, some organisations are attempting to integrate manual and clerical jobs into unified systems. If such a scheme is put in place it assists in the removal of sex bias normally associated with gender-segregated pay structures.

#### 5.3. JOB TITLES

**Are different job titles given where similar work is undertaken?**

Different job titles may be given to the same or similar jobs distinguished only by the gender of the job holder e.g. storekeeper, store assistant. This may have implications for status and pay levels.

#### 5.4. JOB CONTENT

**Do the job descriptions describe all the work of the jobs and of typically female jobs in particular?**

Do the job descriptions accurately describe the content of the tasks performed? In particular, is traditionally female work adequately captured? Is attention drawn to aspects of women's work which have previously gone unrecognised?

**Is the work content of jobs consistently described?**

Job descriptions should be constant in format irrespective of the sex of the person carrying out the occupation. There are often inconsistencies in the way male and female work is described.

### 5.5. FACTORS

A factor in a formal job evaluation scheme is an element of a job which is defined and measured, such as skill or mental effort. A factor may in turn be divided into sub-factors which go into greater detail under a particular heading. Jobs to be evaluated are assessed against the factors and sub-factors chosen.

#### **Have any significant job features been omitted?**

Some factors may favour one sex only. It should be ensured that factors capture both male and female work.

Factors which are more likely to be present in female jobs may not be identified at all by a scheme and therefore not valued at all, for example caring skills and responsibilities, human relations skills, organisational skills/responsibilities, manual dexterity and/or co-ordination, etc. Categorising jobs by reference to light or heavy work or weighting different factors without taking account of other elements in female as opposed to male work impacts adversely on women.

#### **Does the job classification based on factors, or the weighting of these factors, respond to objective criteria?**

Classifying work by reference to formal qualifications alone can in some instances impact adversely on women. There are skills which cannot be learned by experience alone but which benefit from formal education and qualifications. However, the qualifications or skills which many women have gained are frequently not identified as qualities to be counted positively when classifying work in the labour market. For example, nurturing, cleaning and caring skills may be assumed in certain types of work and not rewarded in pay systems. A kindergarten nurse's training may be school-based and therefore less well

rewarded than typically male jobs which may be apprenticeship based.

Formal qualifications are generally rewarded but those learnt through a different process are frequently ignored. For example, experience learned in the home or by example from another worker may not be credited in the payment system. Thus the basis on which training and qualifications are rewarded may need to be reviewed.

\* \* \*

Further to this assessment, the determination of the pay rates to be attached to the final job evaluation should reflect the relativities of actual demands of the work not 'the rate for the job' which may be influenced by traditional sex-based assumptions of worth. Therefore women should attract the pay levels enjoyed by male occupations with which their work has been found to be equivalent.

## **Part III — Follow-up action to target equal pay**

### **A. Approach**

Once the pay-structure study is completed, follow-up action is needed to tackle every instance of sexual discrimination detected in the pay structure. The aim of this action should be the elimination of all discrimination by applying, as soon as possible, the principle of equal pay for work of equal value. The options chosen to tackle any discrimination ascertained will depend on many factors including the size and the structure of the business as well as the nature and extent of the discrimination.

The level of collective bargaining involved will also have a considerable impact on the measures for eliminating pay discrimination. When the pay structure under consideration is the result of a collective agreement concluded at a higher level, (e.g. sectoral or national) it is at that level that action needs to be taken in cases where sexual discrimination is detected. If the agreement covers a number of

very different workplaces with different proportions of women and men on the pay-roll, other studies may be needed to determine whether the problem of pay discrimination applies to all, or most, of the workplaces concerned.

This follow-up action must be evaluated in order to establish how the matter of equal pay is progressing. Whenever pay structures are subsequently adjusted a study will be needed to ensure that sex-based discrimination does not reappear. Regular reviews of pay structures are then recommended — every three years for example — to verify that the principle of equal pay for work of equal value is being respected.

### **B. Points which could feature in a follow-up action**

The follow-up action to remedy the problems of discrimination found to exist in a given pay system could comprise:

- a merging of those jobs which are gender-specific in terms of the workers who carry them out and application of the higher rate of pay which the men receive;
- efforts to harmonise pay systems which create barriers between different types of job (e.g. office jobs and production jobs);
- a redefinition and re-evaluation of formal qualifications. For example, certain skills which women are likely to acquire in an informal manner could be taken into account and put on an equal footing with formal skills that are traditionally male (plumbing, stone and brickwork, etc.);
- a re-evaluation of the skills which traditionally are more women's than men's (e.g. manual dexterity);
- a reorganisation of work by broadening the employment categories to allow women to access typically masculine jobs where conditions are better;
- the organisation of active training measures to allow access to jobs where the other sex predominates; for example the organisation of courses allowing women

to take up apprenticeships for mechanical jobs, which until now have attracted mainly men;

- an extension of the various advantages to include part-time workers.

### **C. Evaluation of the follow-up action**

To evaluate the implications of the proposed follow-up action and to avoid perpetuating sexual discrimination, the following questions need to be asked:

- What is the effect, for each sex and the workforce as a whole, of the proposed follow-up action aimed at securing equal pay for work of equal value?
  - (1) how many women are better paid as a result?
  - (2) how many women see their pay blocked or remain at the same level of pay?
  - (3) how many women are worse paid as a result?
  - (4) how many men are less well paid as a result?
  - (5) how many men see their pay blocked or remain at the same level of pay?
  - (6) how many men are less well paid as a result?
  - (7) what are the movements of men and women in any grading, classification, evaluation or competence system?
- What levels of pay does the follow-up action propose?
- Are groups of employees, such as part-time workers, excluded from certain procedures and conditions of employment?
- What proposals does the action plan make concerning bonuses, piece work and other pay systems based on results or output?
- Will there be a period of transition for the application of equal pay? If so, how long? Is it reasonable?

- What procedures are proposed with regard to the schedule for regular pay negotiations?
- What levels of pay and employment conditions are proposed for new staff?

It must be ensured in every case that the follow-up action brings about an improvement in pay and other work conditions and does not have the opposite effect.

## Conclusion

The aim of the code is to serve as a working tool for the greatest possible number of social actors who are likely to be in a position to further the principle of equal pay for women and men for work of equal value.

This initiative should therefore be seen as part of a dynamic follow-up exercise involving management and labour plus other parties concerned at all levels capable of ensuring both a wide dissemination and an effective use of the code.

At European Union level and in the context of the fourth community action programme on equal opportunities for men and women (1996-2000), which was adopted by Council Decision 95/593/EC<sup>(1)</sup>, the will to mobilise all those who are concerned with the eco-

nomie and social questions of everyday life as well as those who work in the legal sphere to focus on this problem has already been clearly expressed.

In the light of the recommendations made by the European Parliament in its report on the memorandum on equal pay for work of equal value (PE 213.161/final), adopted on 21 December 1995, the Commission in cooperation and/or jointly with the social partners and other appropriate authorities, will be able to develop further and/or support initiatives aimed at promoting such schemes as:

- campaigns to raise awareness and provide information on equal pay for work of equal value, targeting, in particular, employers, employees and/or their representatives, as well as the parties involved in collective bargaining;
- the training of experts who can study and propose practical solutions to resolve problems affecting equal pay;
- the greater involvement of women in the processes of collectively negotiated wage settlements;
- the identification, examination and exchange of best practice likely to enrich the code by providing concrete examples of the type of measures that it proposes, as well as their practical implementation.

<sup>(1)</sup> OJ L 335, 30.12.1995, p. 37.

# **Incorporating equal opportunities for women and men into all community policies and activities**

## **COM(96) 67 final, 21. 2. 1996**

### **I. Introduction**

#### **1. The issues**

Equality between men and women is now indisputably recognised as a basic principle of democracy and respect for humankind.

However, transforming it into legislation and practical reality presents a considerable challenge for societies with a long history of inequality behind them: in both industrialised and developing countries, inequalities between women and men are still apparent.

The challenge is to build a new partnership between men and women to ensure that both participate fully on an equal footing in all areas and that the benefits of progress are evenly distributed between them. Such a change requires not only progress in the field of legislation but also nothing short of a cultural transformation of individual behaviour as much as of attitudes and collective practices, and determined political action based on the broadest possible mobilisation.

The challenge facing the European Union is to build this new partnership between women and men, taking into account the historic and cultural diversity of the Member States, and drawing on this to develop a European approach to equality which is both pluralistic and humanistic and which constitutes the basis for action both in the Community and in the rest of the world.

The Union's commitment to this objective is a logical extension of the active role it played at the recent United Nations conference held in Beijing, in particular its involvement in formulating the final declaration and the action platform.

For this purpose, it is necessary to promote equality between women and men in all activities and policies at all levels. This is the principle of 'mainstreaming', a policy adopted by the Community, and attention was drawn to its crucial importance at the Beijing conference. This involves not restricting efforts to promote equality to the implementation of specific measures to help women, but mobilising all general policies and measures specifically for the purpose of achieving equality by actively and openly taking into account at the planning stage their possible effects on the respective situations of men and women (gender perspective). This means systematically examining measures and policies and taking into account such possible effects when defining and implementing them. Thus, development policies, the organisation of work, choices relating to transport or the fixing of school hours, etc. may have significant differential impacts on the situation of women and men which must therefore be duly taken into consideration in order to further promote equality between women and men.

Equal participation of women and men is a crucial factor for lasting development and symbolises the level of political maturity of societies: while democracy requires equal rights for women, this in turn guarantees democracy. Meeting this challenge could therefore be part of the European project for the twenty-first century. By firmly committing itself to take into consideration the respective priorities and needs of women and men in all its policies and measures, the Community would demonstrate its attachment to democracy and its attention to the concerns of the citizens. Furthermore, European societies would thus provide a forward-looking solution to the demographic and family changes with which they are confronted and which, given the ageing population, transform wom-

en's employment into a definite advantage for the economy which should be put to the best possible use with a view to ensuring optimum use of human resources.

## 2. The *acquis*

Since its creation, the Community has recognised the principle of equal pay for men and women and on this basis has developed a consistent set of legal provisions aimed at guaranteeing equal rights to employment, vocational training and, to a large extent, social protection.

In order to promote equality in practice, the Community has implemented specific action programmes since the 1980s, which, though having limited budgetary resources, have had a substantial knock-on effect. These programmes funded positive actions and pilot projects which extended the Community's field of action to the reconciliation of family and working life, women's role in the decision-making process, the participation of women in economic life and employment, etc. The Community thus promoted the creation over the years of a complex series of networks of people playing an active role in equal opportunities policy at European level but at the same time representing the cultural diversity of the Member States. It also encouraged the work of organisations promoting equal opportunities, helping to identify good practices and, notwithstanding the conflicts between rival organisations for the promotion of women, fostered the development of possible approaches towards concerted actions to promote equal opportunities.

The Community has also continued to further the cause of women and remove inequalities between men and women through its dialogue with non-member countries, in particular through its policies on development cooperation and the promotion and protection of human rights<sup>(1)</sup>. Mainstreaming of gender issues has, in actual fact, been integrated in

the Community's development cooperation policy for some years.

On the strength of the *acquis* of Community law and the experience and legitimacy gained from the programmes and networks it supported, the Community has been able to participate actively in strengthening the role of women and promoting equal opportunities at international level. It played a decisive role in the preparations which enabled the United Nations conferences in Vienna, Cairo, Copenhagen and, just recently, Beijing to go ahead. The intense interest generated by the last conference, which was put into practical effect in the pledges made on the platform, calls for Community action to be continued.

The Commission has also applied an equal opportunities policy to its staff for many years.

Community action to promote equality between women and men appears overall to be both significant and modest. Significant, in view of the narrow legal basis which gives specific competence only in matters of equal pay (Article 119 of the Treaty), and therefore the obligation in the majority of cases to obtain the unanimity of the Member States on proposals which do not strictly belong to this field. Significant, too, in view of the results obtained despite the meagre financial resources allocated specifically to the promotion of equal opportunities. But decidedly modest with regard to the size of the problem and the expectations it generates, and in view of the resources which might have been allocated for a long time now if equal opportunities had been recognised as a horizontal priority objective of Community policies. Admittedly, a large number of Community activities contribute at least indirectly to equal opportunities for women by, for example, generally promoting monetary stability, economic growth, development of employment, free movement, etc. But the positive effects of these actions on the situation of women are often not very apparent and sometimes uncertain.

The Essen, Cannes and Madrid European Councils stressed that promoting equal opportunities for women and men, together with

<sup>(1)</sup> cf. the Commission Communications on integrating gender issues in development cooperation (COM(95) 423 final of 18 September 1995) and on the external dimension of human rights policy (COM(95) 567 final of 22 November 1995).

combating unemployment, was one of the paramount tasks of the Union and its Member States. A determined effort must therefore be made to pursue and intensify the action already taken. The Commission intends to make an active contribution to the efforts required and to mobilise all Community policies towards this end. It has proposed a new equal opportunities action programme (1996-2000)<sup>(1)</sup>, which should enable progress to be made in the field of legislation, the effective development of the principle of mainstreaming and the support and organisation of specific measures to promote equal opportunities. The programme was prepared on the basis of a very extensive consultation procedure and this procedure will be continued through the work of the Advisory Committee on Equal Opportunities, the composition and role of which has been modified for this purpose<sup>(2)</sup>. The Council recently adopted the Decision establishing this programme, reducing, however, the budget allocated to it in the Commission's proposals<sup>(3)</sup>.

### 3. Mobilisation of all Community policies

Action to promote equality requires an ambitious approach which presupposes the recognition of male and female identities and the willingness to establish a balanced distribution of responsibilities between men and women. It calls for the active involvement of women but also of men and the mutual recognition of their respective responsibilities. The promotion of equality must not be confused with the simple objective of balancing the statistics: it is a question of promoting long-lasting changes in parental roles, family structures, institutional practices, the organisation of work and time, etc. and does not merely concern women, their personal development and independence, but also concerns men and the whole of society, in which it can encourage progress and be a token of democracy and pluralism. This applies not only to Europe and industrialised countries but also to developing countries.

(1) cf. COM(95) 381 final of 19 July 1995. Fourth medium-term Community action programme on equal opportunities for women and men (1996-2000).

(2) Commission Decision of 19 July 1995, OJ L 249, 17.10.1995.

(3) Decision of 21 December 1995.

The promotion of equality between women and men, therefore, does not simply require the implementation of positive measures targeted at women, e.g. to promote their access to education, training or employment. It also requires measures aimed at adapting the organisation of society to a fairer distribution of men's and women's roles, e.g. by adapting the organisation of work to help women as well as men reconcile family and working life; or by encouraging the development of a multitude of activities at local level to provide more flexible employment solutions, again for both men and women; or by guaranteeing the rights of fathers as much as those of mothers so that both can be expected to carry out their responsibilities and duties to the full; or by adapting social protection to incorporate the trend towards the individualisation of rights into collective responsibility, etc.

The systematic consideration of the differences between the conditions, situations and needs of women and men in all Community policies and actions: this is the basic feature of the principle of 'mainstreaming' which the Commission has adopted. This does not mean simply making Community programmes or resources more accessible to women, but rather the simultaneous mobilisation of legal instruments, financial resources and the Community's analytical and organisational capacities in order to introduce in all areas the desire to build balanced relationships between women and men. In this respect, it is necessary and important to base the policy of equality between women and men on a sound statistical analysis of the situation of women and men in the various areas of life and the changes taking place in societies.

This global, horizontal approach requires mobilisation, which is why the Commission has set up, under the auspices of its President, a Group of Commissioners responsible for stimulating the debate and ensuring that the concern for equal opportunities for women and men is built into all Community activities. An inter-departmental group has been appointed to prepare and monitor this work, and this is now taking note of initiatives planned or in progress with a view to identi-

fying possible synergies and cooperation between them.

This Communication is the outcome of that analysis and is divided into two parts:

- (i) the first part presents the Community *acquis* and prospects for future action in six areas: employment and the labour market, the status of women entrepreneurs and assisting spouses in SMEs, education and training, people's rights, external relations, information; added to these six areas is the Commission's personnel policy;
- (ii) the second part presents the role of the Structural Funds, which constitute the Community's main financial instrument, and which provide assistance in several of these areas.

This analysis probably does not exhaust all the measures which the Community may take to contribute to equal opportunities. However, it gives an overall picture which calls for greater consistency and complementarity between the various Community measures and which provides evidence of the inter-departmental cooperation already under way.

## **II. The *acquis communautaire* and prospects for future action in the field of equal opportunities**

### **1. Employment and the labour market**

Employment is one of the key areas for equal opportunities: access to employment is one of the basic elements necessary for equal opportunities for women, and job structure and conditions of work and pay are important indicators of progress — as yet insufficient — in the field of equal opportunities.

In this respect, the situation has improved, at least for the well-qualified women of the younger generations who have had greater access to the higher and intermediate categories of the labour market, particularly in the public sector, teaching and health. This trend has accentuated the disparities within the female population. However, the predominant fea-

ture of the labour market is the continuing inequality and job segregation between men and women: the proportion of women employed in administration and services has increased; likewise, the majority of insecure and part-time jobs are filled by women, which is why most jobs created during the past few years have been taken up by women.

Women's rate of participation in the labour force has increased and, on average, two out of five jobs within the European Union are now occupied by women. Women's employment situation varies widely, however, from one Member State to another, in particular with regard to the rate of labour force participation, frequency of part-time work and the unemployment rate.

The Community has been a prime mover in promoting equal employment opportunities, in particular by means of the directives enshrining the principle of equal pay and, to a large extent, equal treatment with regard to social security in European law.

The action programmes for equal opportunities implemented since 1982 have promoted studies, experiments and discussions of the policies most likely to promote equality in the field of employment, in particular through the development of positive actions, the reconciliation of family and working life, the promotion of female entrepreneurship, and local development; they have thus encouraged the implementation of pilot projects and their development into transnational networks.

The Structural Funds and, in particular, the European Social Fund have for a long time provided substantial financial support for measures promoting the training and employment of women. This contribution is dealt with in Part III of this Communication.

In addition to its activities in the context of the Structural Funds, the Commission intends to continue the efforts undertaken in two areas:

- Firstly, it is necessary to continue to construct the legal basis for equality, in particular by means of directives and/or agreements which might be concluded by the social partners on flexible working



time, the burden of proof and initiatives relating to child care, home working, equal pay and the individualisation of social protection rights. It should be pointed out in this respect that an initial agreement has been concluded between the social partners under the social protocol on the reconciliation of family and working life.

- The Commission intends to rationalise and integrate its aid more effectively for studies and pilot projects relating to women entrepreneurs, reconciliation of family and working life and desegregation of the labour market. This is one of the objectives of the new equal opportunities programme which has just been adopted. Generally speaking, as far as employment is concerned, this programme is to be used as an instrument to exchange experience and encourage analysis and debate, in association with the Member States, and taking into account the discussions and measures on employment initiated after the Essen, Cannes and Madrid European Councils. An intensification of efforts to promote equal opportunities in the field of employment is one of the guidelines agreed at Madrid, and issues relating to the organisation of work, active employment policies, new sources of employment, etc., which are the subject of these discussions and measures, are particularly relevant in this case.

## 2. Women entrepreneurs and assisting spouses in SMEs

Women play an important role in the administration and management of SMEs, firstly as entrepreneurs: of the 16 million SMEs in the Union (EU-12), 20-30% are managed by women; in addition, 25-35% of new businesses are created by women. Secondly, they play a role as assisting spouses to the manager: in 60-80% of SMEs, the manager's spouse carries out administrative and management duties and he/she is, with or without official status, the manager's closest associate and may even be described as a genuine co-entrepreneur; it is generally acknowledged that the greater the assisting wife's role in the

running of the company, the greater the chances of the company's survival. Moreover, in some sectors such as fisheries, the activities of each of the spouses are complementary; likewise in rural areas, where 10% of farm managers are women, farmers' wives are directly involved in the development of farm tourism and local services.

Women entrepreneurs and assisting spouses are faced with various difficulties and constraints:

- lack of business training at the time of creating the company and during its first years of existence;
- lack of recognition in economic circles, in particular with regard to accessibility of finance, and chronic lack of own capital;
- problems in reconciling family and working life;
- difficulty in obtaining access to sources of information;
- little or no recognition of the status of assisting spouse.

The Commission's enterprise policy is aimed at all sectors and all entrepreneurs, men or women, and seeks in particular to foster an environment conducive to initiative and the development of enterprises, especially SMEs, to improve their financing and to promote their integration into the single market.

There are specific measures to help women entrepreneurs and assisting spouses, though resources are limited. These include training initiatives, help in creating networks (e.g. help in creating a European association of assisting spouses), the funding of measures carried out by groups of women in the social economy field, etc. The Commission also provides financial and logistical support for the organisation of conferences dealing directly with the subject of women entrepreneurs and assisting spouses (Thessaloniki (March 1994), Paris (June 1995), Barcelona (November 1995)). There are also a number of measures included in the Structural Fund operations and, *inter alia*, in Community initiatives (Leader, LEIs, NOW, ADAPT,

SMEs) which may help women entrepreneurs and assisting spouses.

There is also Directive 86/613 on equal treatment between men and women engaged in an activity in a self-employed capacity, which, however, has had little impact on account of the mildness of the obligations it imposed.

It is intended to reinforce measures to help women in SMEs in the future, in particular by improving flexibility of work and occupational skills (including use of telematics), easier access to finance and improved access to information and advice.

Continuing its support for the conferences on women entrepreneurs and assisting spouses, the Commission is currently defining the priority measures to be included in the multi-annual action programme for SMEs (1997-2000). Several initiatives will also be taken to provide better awareness of and information on the situation of women entrepreneurs and co-entrepreneurs (which will be the subject of a special chapter in the European Observatory for SMEs' annual report) and that of assisting spouses (list of training measures). Inter-departmental cooperation will be reinforced to encourage awareness of the needs of women entrepreneurs and assisting spouses in training programmes (Leonardo) and in Structural Fund initiatives. Likewise, cooperation with the Euro-info centres at the Commission's information offices will be intensified. Finally, with regard to the above-mentioned Directive 86/613, the Commission, after consulting the partners concerned, will propose an amended Directive to provide a better solution to the problems encountered.

### **3. Education and training**

Education and training are powerful springboards towards obtaining equal opportunities for women, even though they alone cannot guarantee occupational integration equivalent to that of men. Enhancing women's skills also enriches the pool of human resources, which is good for competitiveness and growth, and persistent unwillingness or opposition to the recognition of women's skills on the labour market and in the organisation of

work and their contribution to development can be considered a waste of human resources. By paving the way towards a change in mentalities, education and training may also have a significant influence on social and professional relationships between women and men, making it possible for each to develop their respective roles, thus promoting the reconciliation of family and working life for both men and women.

The situation of women as far as education and training are concerned has improved considerably, but substantial efforts must still be made to improve women's skill levels and to facilitate not only their access to employment but also their return to work after a break in their careers. Moreover, the persistence of social and cultural models or stereotypes inherited from the past has led to an insufficient diversification of the choice of school subjects and occupations made by women and also given them less access to decision-making posts. Thus, in most cases, they abandon scientific and technical subjects, new technologies and management and give preference to traditionally female occupations (either through inclination, low self-esteem or inadequate information); sometimes these make it easier to reconcile family and working life, but render more difficult certain choices of career, access to decision-making posts or the status of entrepreneur, etc. In this context, education and training can contribute to equal opportunities by making those concerned aware of the importance of this diversification of choice, by supporting women who choose less popular career paths and those who need another chance or assistance to transform an unstable job into the first stage of an integration process and, more generally, by encouraging changes in attitudes and mentalities with regard to trades and occupations.

One of the specific tasks will also be to enhance the value of occupations taken up predominantly by women, in this case the teaching profession, given its important role in determining the future capacity for adaptation to the labour market and dealing with the key issues facing society (the environment, for example).

Community action in the field of vocational training comprises to a large extent substantial financial support from ESF operations, which provide funding for, *inter alia*, measures to help women. The NOW initiative has of course brought about a significant change in this area.

Community action in the field of education has supported the development of transnational projects which have sought either to raise the awareness of or train all the players involved in education (teachers, pupils or students, parents, staff involved in education) or to develop suitable educational material on equal opportunities in order to help change mentalities at an early stage, prior to entry into the labour market.

In addition, the specific programmes in the field of higher education (Erasmus, Comett, Lingua) and initial and continuing training (Eurotecnet, PETRA and FORCE) have also contributed to this objective, as has the training and mobility programme set up for researchers; however, in most cases the participation of women in these various programmes has simply reflected their participation in the labour market in general.

The Socrates (education), Leonardo (training) and Youth for Europe programmes, which were devised to consolidate and rationalise external measures in the field of exchanges and pilot projects, incorporate equal opportunities either as a specific objective (Leonardo) or as a supplementary priority for inclusion in all programme measures (Socrates, Youth for Europe). The Leonardo programme focuses particular attention on women returning to work after interrupting their careers and on fields of activity in which women are under-represented. It also incorporates activities relating to the vocational training of women carried out previously by the IRIS network. It also encourages project promoters to regard equal opportunities as an essential part of all training measures.

In addition to these programmes, various education and training measures have been or are being funded, often only on a selective basis, under various budget headings and/or in the

context of funding for research activities, aid for SMEs, etc.

The concept of lifelong learning is the fundamental philosophy behind the new programmes and, more generally speaking, Community action in the fields of education and training. This philosophy involves reinforcing cooperation and complementarity between programmes in the future (Socrates and Leonardo) and between these programmes and the other Community measures incorporating an 'education and training' aspect (Structural Funds: mainstream and the ADAPT and Employment initiatives, and in particular NOW; research). The monitoring and assessment of the programmes and the preparation of a White Paper on education and training will make a significant contribution in these two areas to the overall strategy proposed by the Commission under the new equal opportunities programme.

#### 4. Rights of persons

Recognition of the principle that the fundamental rights of women and girls are an inalienable, integral and indivisible part of universal human rights was reaffirmed at the Beijing conference.

The Community has contributed to the substantial progress made in the field of recognition of rights, and the European model of equality comprises a unique collection of knowledge, laws, institutions and practices which have conferred formal rights on women and have promoted their standing in the European Union. Information concerning these rights must be widely disseminated. In addition, improvements could be envisaged in the following specific areas:

- *Measures aimed at curbing violence against women*

With regard to measures aimed at curbing violence against women within and outside the European Union, the inclusion of the concept of gender in Community programmes should make it possible to improve and support measures such as:

- (i) the organisation and financing of public awareness campaigns concerning the problems of violence against women;
- (ii) medical and psychological assistance and other types of care for women who are victims of violence;
- (iii) the development or creation of programmes aimed at providing training in this area for the legal and medical professions, social workers, teachers and the police.

- *Women refugees*

Following on from the Resolution of the Justice and Internal Affairs Council of 20 June 1995 on the minimum guarantees to be offered in asylum procedures within the Union, the Commission is now examining the possibility of introducing a series of measures aimed at resolving the particular problems encountered by women refugees.

With regard to women refugees outside the Union, measures should be taken to ensure their safety and integrity as effectively as possible. They should also be involved in the planning, implementation and monitoring of projects and programmes designed to help them, in order that these may best take into account their specific needs.

- *Measures against trafficking of persons*

With regard to measures against trafficking of persons, the inclusion of the concept of gender should make it possible to:

- formulate laws to prevent 'sexual tourism' and the trafficking of persons, in particular the trafficking of women in prostitution networks;
- the adoption of appropriate measures in order to develop programmes aimed at reintegrating victims of such trafficking into society (legal aid, care, cooperation with NGOs, training with a view to reintegration).

The Commission took the initiative of organising a seminar and a conference on the measures which might be taken within the Union

in order to work out an overall approach which would protect the victims of such trafficking (temporary or permanent residence permit, social and legal assistance, etc.) and tighten up measures against traffickers. Related questions, such as the status of certain categories of women particularly vulnerable to abuse or exploitation of a sexual or other nature, e.g. immigrant women with a work permit which does not allow them to change employer (case of temporary domestic staff), might also be dealt with.

- *Other related questions*

The manner in which mentalities and lifestyles have evolved has led to the diversification of family structures and histories and has increased the risk of conflict over custody of children. The difficult situations which result from this are often rendered all the more dramatic and traumatic by the fact that in this area of law there is no legal system covering questions of competence, recognition and execution of judgments in the field of family law. It is therefore proposed to extend the scope of the Brussels Convention to family matters or to draw up a new convention on this subject.

A number of problems specifically affecting non-member country nationals, in particular immigrant women resident in the Community, might also be dealt with: such problems include, for example, the free movement for a short stay of non-member country nationals lawfully resident in another Member State, on the subject of which the Commission has just presented a draft Directive to the Council (COM(95) 346 final of 12 July 1995).

The members of the family of a citizen of the Union who are non-member country nationals — normally the wife and children — obtain a secondary residence permit on reunification of the family, which means that in the event of divorce or repudiation, their right of residence ceases at the same time. For this reason, a right of residence of their own, following a reasonable period of residence, would seem to offer legal security and, where necessary, help them live independently of the person with whom they were united.

## 5. External relations

The Commission made an active contribution to the world conferences on the environment (Rio de Janeiro, 1992), human rights (Vienna, 1993), population (Cairo, 1994), social development (Copenhagen, 1995) and women (Beijing, 1995), the conclusions of which concern, in various respects, the promotion of women, consolidation of the means of action open to them and their autonomy.

The world conference on women held in Beijing highlighted the scale of the efforts required to promote equal opportunities. It emphasised the diversity of women's situation in the different countries, in particular the continued existence in a large part of the world of major obstacles to full economic, political and social rights for women in fields such as human rights, education and health, decision-making and access to economic resources. Moreover, it reaffirmed what had been established at Rio de Janeiro, Cairo and Copenhagen concerning the essential contribution made by women to the lasting economic and social development of society.

Considerable differences exist between men and women, particularly in developing countries, with regard to their roles, responsibilities, constraints, advantages and priorities, in both the economic and social fields. Development programmes and policies which do not take these gender issues into account are not likely to result in real benefits for women and may even place them at a disadvantage. In order to achieve real progress for women, gender issues must be taken into account systematically and are the key to obtaining lasting development for the whole of society. These are the factors underlying the principle of 'gender mainstreaming', which has for several years now been an integral part of the Community's development policies and its development cooperation conventions and agreements with the ACP countries, Asia, Latin America and the Mediterranean basin. This experience has enabled the Community to develop a range of internal instruments and measures specific to this field.

In accordance with this policy, the Community is keen to ensure that its development co-

operation projects and programmes focus particular attention, right from the planning stage, on the specific needs and priorities of women and men, while ensuring an equal level of participation.

At the same time, the Community is supporting large-scale positive action programmes with a view to eliminating the major disparities between women and men in developing countries, particularly in the fields of health and education.

In addition, specific programmes such as the Democracy and LINK programmes in the context of Phare and Tacis make it possible to support initiatives of NGOs which affect women more directly.

In the future, it is intended to intensify this mainstreaming of the consideration of gender issues in all development cooperation activities in the ACP countries, Asia, Latin America and the Mediterranean basin, by applying the strategies set out in the recent communication on integrating gender issues in development cooperation.

## 6. Information/awareness

Putting the principle of equal opportunities into practice requires the introduction of a communication strategy comprising awareness-raising activities for the general public and information activities relating to specific programmes, which must be targeted at those concerned by the programmes in question (e.g. assisting spouses, women farmers, women entrepreneurs, etc.).

Awareness-raising activities should help to challenge certain discriminatory prejudices and stereotypes. They must be directed at both men and women, and particular attention might be focused on young people, for whom information and awareness-raising activities would consolidate or supplement educational measures. These activities must also be adapted to the cultural context of each Member State.

Up to now, the Commission's communication policies in the field of equal opportunities

have been aimed principally at specific sections of the public. This is the case, for example, of some of the publications, symposia and networks funded by DG V (women in the decision-making process, women and the media, etc.), the workshop organised by DG XII on women in scientific and technical research, DG XXIII's activities to help women entrepreneurs or assisting spouses, etc. In some cases, the activity has been aimed at all women (DG X's *Women of Europe* newsletter) or at all those involved, e.g. DG XXII's awareness-raising activities in the field of equal opportunities in education and training.

This list of measures highlights the increasing number of initiatives taken to promote equal opportunities in the Commission's activities, but also the need for improved coordination between the departments concerned in order to establish a consistent, systematic and visible communication policy, adapted to the various target audiences.

A communication plan in the field of equal opportunities must therefore be developed with all the parties involved and a detailed inventory of all communication operations carried out by the various departments must be drawn up for this purpose.

Under the communication plan, an overall approach to information on equal opportunities as well as sector-by-sector implementation (employment, education/training, Structural Funds, cooperation/development, etc.) will be proposed, backed up by a proposal for an equal opportunities information programme.

The dimension of 'equality between women and men' will have to be incorporated into all communication instruments used to convey the Commission's information policy (definition of target publics, selection of subjects and form of publications, including illustrations, use of opinion analysis tools, etc.).

The 'quality' of information will have to be improved and will take into account the diversity of cultures and audiences. Communication on the subject of equality will have to be extended beyond work and the social field to

all aspects of life and to sectors in which women have a particular interest: the new information technologies, biotechnologies, consumer protection and the environment, to name but a few. In the field of the environment, given women's sensitivity to improvements in the quality of life, changes in consumption patterns, etc., their opinions are listened to and they already receive assistance from DG XI via organisations and NGOs in which they are widely represented.

Equal opportunities is one of the subjects which will be developed under the 'Citizens First' initiative. This initiative is one of the three main priority actions in the field of information adopted by the Commission over the next two years.

An event targeted at the general public and held on International Women's Day on 8 March, such as the organisation of a European Women's Day on a topical subject, should raise awareness of this issue. In addition, events and meetings covered by the media on subjects relating to Community policies, programmes and activities should systematically take into account the need to address both men and women and the specific issues which concern them respectively.

Inter-institutional cooperation on the subject of equal opportunities could be encouraged by strengthening cooperation between the departments responsible for information within the Commission and the European Parliament. This cooperation might also be extended to other Community institutions.

## **7. The Commission's personnel policy**

The Commission has applied an equal opportunities policy to its staff for many years.

The positive action programmes have been the main instrument through which this policy has been implemented, and the second of these, covering the period 1992-96, is currently in force. This programme seeks to obtain an equal number of women in categories and functions in which they are under-

represented and to promote their professional development by guaranteeing them equal opportunities for career advancement and training. The positive action programme also aims to guarantee accompanying measures and social infrastructure to enable everyone, both men and women, to reconcile their family and professional obligations.

This means that equal opportunities policy is automatically incorporated into all areas of personnel management: recruitment, careers, the planning and allocation of resources, social policy, the rights and obligations of officials. Furthermore, there is a special equal opportunities unit within the Directorate for Personnel and Administration, whose task is to coordinate the implementation of equal opportunities plans drawn up by each Directorate-General within the general framework of the positive action programme, and to make all staff aware of equal opportunities.

While equal opportunities has been recognised as a horizontal priority objective of Community policy, the institution must ensure that women have a greater role to play at all stages of the planning, negotiation and decision of policies within the various Directorates-General. For this purpose, the Commission has stressed the importance of female recruitment in its recruitment policy, both with regard to recruitment at the starting grades and with a view to appointing more women to management posts in the future. As far as starting grades in Category A are concerned, the annual organisation of general competitions for Assistant Administrators (A8) attracted almost as many female applicants as male and the success rate of women, which has also improved in recent years, made it possible for the percentage of women recruited at this grade to rise to 27%.

Accordingly, and in the context of positive actions, the Commission adopted guidelines for the recruitment and appointment of women in 1995, when the three new Member States joined the Union. This strategy, if repeated annually, should bring about a real restoration of the balance in the years to come.

### III. Structural Fund operations and equal opportunities

Structural policies constitute the main Community instrument used to correct regional imbalances and to improve employment and integration prospects. The ratio of inequality in the field of employment between economically integrated regions and regions experiencing problems is 1:10<sup>(1)</sup>. Regions experiencing problems are those whose development is lagging behind, areas of industrial redevelopment and disadvantaged urban areas, rural areas, etc. The medium-term trend in the distribution of people and activities within the Community also gives cause for concern. There is a need for corrective measures to curb the trend towards increasing urbanisation and the congestion of some regions, while interior or peripheral regions are abandoned. The situation of women is worsened in such a precarious environment.

Increasing the contribution of the Structural Funds (European Regional Development Fund, European Social Fund and European Agricultural Guidance and Guarantee Fund) to the promotion of equal opportunities is therefore of great political significance. The incorporation of equality into structural policies is, firstly, a response to the need to reduce the inequalities which exist between men and women with regard to the rate of employment, the level of training, access to the labour market and involvement in the decision-making process. But it is also part of a desire to promote lasting development, by combining job and wealth creation with quality of life and preservation of the cultural and natural heritage.

Observance of the principle of equal opportunities was introduced into the regulations governing the Structural Funds in 1993. On 22 June 1994, the Council adopted a resolution on the promotion of equal opportunities for women and men through action by the Structural Funds. However, Structural Fund operations are still relatively modest, and efforts to mobilise the partners and, above all, the national and/or regional authorities re-

<sup>(1)</sup> The regional unemployment rates vary from 3.4% to 34.7%.

sponsible for devising and implementing the programming must be continued and intensified.

### 1. The 1989-93 programming period

During the 1989-93 programming period, the ESF was the instrument most directly involved in promoting equal opportunities. Actions implemented as part of general measures to train and help young people and the long-term unemployed find employment made it possible in particular to improve the situation of women with regard to employment. It should be noted that 5% of ESF appropriations under Objectives 3 and 4 (i.e. ECU 380 million) were earmarked specifically for operations to help women. The other Funds (ERDF, EAGGF) have contributed in an indirect and less concentrated manner to the promotion of equality, firstly by their general support for development and, secondly, where appropriate, by funding training infrastructures or complementary social facilities.

From 1991 onwards, the segregation of the labour market and social marginalisation, of which the main victims were women, led the Commission to launch a specific initiative — NOW (new opportunities for women) — with a budget of ECU 156 million. This instrument made it possible to improve vocational training and encouraged business creation by granting direct aid. Of the numerous projects assisted under the NOW initiative (1991-94), some 300 involved the creation of small businesses and cooperatives. Some projects raise women's awareness, bring them into contact and make them more receptive to an offer of training. By way of illustration, the establishment of a 'reception-training-social' centre in a very deprived area of Oporto, fitted out — with ERDF assistance — with the modern household equipment lacking in the area, made it possible to satisfy the local community's everyday needs, while at the same time encouraging practical training, itself funded by the ESF.

The main achievement of the NOW initiative has been to decompartmentalise assistance by mobilising a wide range of operators. The innovative measures taken under this initiative

and its transnational nature, thanks to the setting up of networks for the dissemination of experience, enabled promoters to have new programmes, methodologies and infrastructures which could be used on a large scale. In the light of its success in opening up new approaches towards greater consideration of women in all the Structural Funds, the NOW initiative has been renewed and consolidated (ECU 360 million for the period 1994-99).

A number of good practices have also been observed under Community initiatives such as Leader, Interreg or pilot projects financed under innovative measures supported by the Funds. These are specific examples of coordination between promotion of the principle of equality and the overall development strategy.

The Leader I initiative (1989-93) encouraged the economic diversification of rural areas by supporting new activities organised by women, for example:

- (i) in Greece a project was aimed at modernising the productive base by organising and supporting domestic industry. A women's association organised various exhibition sites and managed a centre for domestic industry and handicrafts. The project, which was launched in 1990, enabled women in the region to be given continuing training in the manufacture of local quality products and craft objects.
- (ii) in the United Kingdom, target groups (20 young unemployed people, 10 managers made redundant and some 15 women wishing to start up a business at home) benefited from start-up aid through the financing of feasibility studies, marketing and promotion costs, further training courses and training in local services.

Under the multi-fund transborder cooperation programme (Community initiative Interreg I) between France and Spain, some 30 women with an average age of 38 from a region affected by a high rate of unemployment because of the decline in the textile industry were helped in their career plans (creation of activity or search for a job) through training measures, training courses in the neighbour-



ing country and the setting up of partnerships for complementary projects.

The ERDF pilot projects (Article 10) also supported measures aimed at improving back-up structures for women which would facilitate their occupational or social reintegration. The issue looked at in most detail was the improvement of the quality of life.

For example, in the United Kingdom, under a scheme to regenerate inner-city areas a multi-purpose community centre providing the equipment necessary for the regeneration programme was funded. The centre includes a family department offering a full range of services, including an original type of crèche which enables the occupational reintegration of the very large number of young mothers.

## 2. The 1994-99 programming period

During the present programming period (1994-99), the promotion of equal opportunities is a priority running through all the activities receiving Structural Fund assistance, with a determined effort being made to obtain greater coordination.

The promotion of equal opportunities is referred to in all ESF programming documents, especially those of Objective 3, as a priority which should apply across the board to all general measures to be supported. In a number of Member States, these programming documents also refer to a specific set of actions aimed at promoting equal opportunities (within Objective 3 or within the human resources component of Objective 1) and are intended to complement the horizontal approach adopted.

The introduction of the concept of pathways to integration as a result of the experience gained under the NOW initiative, and the relaxation of the criteria for programme eligibility, have made it possible to formulate 'packages' of personalised measures aimed at integration or reintegration into the labour market. Thus, in the field of education and training, the ERDF and the Social Fund may provide coordinated and complementary assistance, the ERDF financing the equipment

and installations and the Social Fund the operating costs.

Combined operations by the ESF, ERDF and EAGGF also help in carrying out measures and providing facilities which make it possible for women to reconcile their working and family life better (crèches, kindergartens, after-school activities, adaptation of transport in sparsely-populated areas, etc.). Measures which are directly linked to the provision of infrastructure for business areas and the creation or maintaining of jobs may be of direct benefit to women entrepreneurs and assisting spouses, as well as to the female employees of the enterprises supported. Generally speaking, operations relating to the adaptation of production activities, local development and improvement of the quality of life do not concern solely women but may have a more direct impact on promoting equality on account of their proximity effects.

The Community initiatives (such as ADAPT, URBAN I, Leader II, Interreg II) also reflect the political impetus given to equal opportunities.

Thus, in a French town, the ideas generated by the URBAN initiative about care facilities for young children led to the creation of a centre intended not only to cater for children but above all to help parents play their full part in bringing up children in an unstructured environment. In the future, European funding will enable one-parent families on a very low income to have access to jobs by creating care facilities adapted to vocational training opportunities (day-care centres with extended hours, more family crèches, etc.).

As in other fields, the Community added value is generated by bringing the various project sponsors together. The networks which initiatives such as NOW or Leader<sup>(1)</sup> have at their disposal constitute a prime means of exchanging practices and transferring experiences and methodologies.

<sup>(1)</sup> Leader II (94/C 180/12): 'The present network must also expand its activities, in particular by establishing a methodological instrument, the European Observatory of Rural Innovation and Development, whose role will be to identify, specify, validate and facilitate the transfer of innovations implemented in rural environments'.

Through the support given to these various measures and the strengthening of Community initiatives, the Funds facilitate the identification and dissemination of good practices and help to boost cooperation and integration under the new Equal Opportunities Programme (1996-2000).

### 3. Outlook

Of the proposals aimed at making sure that greater account is taken of equal opportunities, it is planned first of all to take advantage of the current programming, which means in particular that the monitoring committees will have to be alerted, in conjunction with evaluation measures.

Thought will have to be given to the indicators and ways of measuring the extent to which the principle of equal opportunities will be taken into account in the programming. Basic indicators will have to be established for certain types of measures with positive connotations for equal opportunities in order to be able subsequently to define pertinent project selection criteria for the programme monitoring committees. To this end, a horizontal evaluation study will be able to shed light on the way in which this aspect is really applied by the Structural Funds.

The production of basic regional statistics (availability of social infrastructure, breakdown of long-term unemployed by sex, female activity rates, proportion of women by socio-professional category, etc.) is also an essential prerequisite for measuring trends.

Methodological guidelines will be drawn up for the monitoring committees by several Commission departments working together.

The efforts to achieve synergies in the current programming period imply greater coordination of multi-fund operations for the launching, financing and exploitation of the results of pilot projects linked directly to the promotion of equal opportunities (Article 10 ERDF, Article 6 ESF, Article 8 EAGGF-Guidance). In this connection, special attention will be paid to measures to assist women wishing to set up their own business, along the lines of the awareness-raising operations already

carried out for the European business and innovation centres and the Euroleader programme.

Flexible programming affords scope for redirecting the multiannual programmes already adopted (1994-99 for Objective 1 and Objective 5b, 1995-99 for Objective 6, 1994-96 for Objective 2). This flexibility must be used to strengthen measures which are recognised as being effective and to explore new avenues of assistance. When the reserve for Community initiatives was allocated on 4 October 1995, the Commission decided in principle to place particular emphasis on equal opportunities in URBAN II and to give a boost of ECU 100 million to the NOW initiative.

Generally speaking, the Structural Funds may make an effective contribution towards implementing the Union's and its Member States' priorities of combating unemployment and promoting equal opportunities for women and men. In this context and in accordance with the guidelines agreed by the European Council, they may in particular encourage the search for more employment-intensive growth and the optimum use of human resources.

In order to alleviate some of the constraints which primarily affect women, the Structural Funds can be used as a matter of priority for the development of infrastructures and services for the care of dependants or for investment by enterprises to assist, through new organisation of work, the creation of jobs and reconciliation with family life.

The Funds also have to contribute to the economic and social integration of urban and rural populations that are becoming marginalised. Combating the rapid marginalisation of women who are disadvantaged and/or live in sensitive areas requires a concerted effort to reconstitute social links: for example, through the creation of social centres (multipurpose halls for sport, entertainment, distance learning, etc.) or the financing of teaching tools and business-creation support services.

These guidelines complement those relating to the promotion of new sources of employ-

ment, the adaptation of the organisation of work and skills and support for regional development and local initiatives.

A European seminar aimed at promoting equal opportunities in Structural Fund assistance will be held in Brussels on 7 and 8 March 1996, in particular to mobilise the national and regional authorities responsible for implementing the programmes and to derive maximum benefit from the efforts made. Other events are also planned, such as the organisation of exhibitions and conferences on innovation and local development for women as part of the Luleå (Sweden) Europartnership in June 1996. Lastly, promotional booklets illustrating and encouraging good practices will be produced.

#### **IV. Conclusion**

This communication is one stage in a process that must be continued in order to give more concrete expression to the principle of mainstreaming than in the past. In fact, assessing the ways in which equality between women and men has been taken into account up to now in Community policies gives rise to a series of guidelines and proposals which must now be implemented.

Without doubt, there is still a lot to be done to ensure that promotion of equality between women and men actually becomes a strategic objective fully integrated into all Community policies and that the male/female dimension is taken into consideration in the planning and implementation of those policies (gender perspective). It is quite clear above all that the progressive implementation of these guidelines calls for a significant increase in cooperation within the Commission's departments and strengthening of the partnership with the Member States and the various players and organisations concerned.

The very fact that this communication has been produced, at the instigation of the Group of Commissioners on Equal Opportunities, is evidence of the efforts that have been made within the Commission. Such efforts reflect a political commitment and a desire to give a significant impetus to Community action,

thereby supporting the efforts undertaken at all levels to promote equality between women and men.

Various measures and initiatives should in the next few months give practical effect to the cooperative efforts undertaken. 1996 will see the implementation of initiatives as a follow-up to the Beijing conference. It will also be the year of introduction of the new equal opportunities programme recently adopted by the Council, the official launch of which will give rise to a major conference in autumn 1996. Structural Fund assistance should also be confirmed, and the European seminar to be held on 7 and 8 March 1996 will provide a forum for discussion with the Member States and the other players involved. Cooperation with the social partners will continue and attention should be drawn in this connection to the fact that they have just reached an initial collective agreement under the protocol on social policy on reconciling family and working life.

1996 should lead to substantial progress in implementing the principle of mainstreaming in all Community policies, in particular in each of the fields dealt with in the second part of this communication. For this purpose, it will be necessary to take measures to continuously monitor and evaluate the action undertaken. The inter-departmental group on equal opportunities is to contribute to this, relying, where necessary, on appropriate expert reports. It will be necessary to scrutinise policies more carefully from the point of view of equality and, therefore, in order to manage, identify and evaluate their effects, to establish suitable analytical indicators and procedures. Such a systematic evaluation will make it possible to confirm that consideration of equality between women and men in the proposed measures and, by extension, in all Community policies is being practically and effectively implemented. This will be the subject of one of the chapters of the report on equal opportunities which the Commission now intends to publish each year and which will present the policies and measures implemented in the Member States as well as action taken at Community level.



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